

1 informed and believes that the defendant and its management acted deliberately
2 for the purposes of injuring her.

3
4 88. Defendant, by and through its managing agents and employees, further acted
5 intentionally and unreasonably because they knew and/or should have known
6 that their conduct was likely to result in additional, severe mental distress.
7 Plaintiff therefore seeks damages for such emotional distress in an amount to be
8 proven at time of trial.
9

10 89. Plaintiff is informed and believes and thereon allege that this cause of action is
11 not preempted by the California Workers' Compensation Act on the grounds that
12 employment discrimination is not a risk or condition of her employment.
13

14 90. Because of the wrongful acts of Defendant as herein above alleged, Plaintiff has
15 been and/ or will in the future be required to employ physicians and mental
16 health care professionals to examine, treat and care for her and will incur
17 additional medical expenses in an amount to be proven at the time of trial.
18

19 91. In doing the acts set forth above, Defendant and its managing agents acted as
20 herein alleged with a conscious disregard of Plaintiff's right to be free from
21 discrimination based on age. Defendant acted, as alleged, with the malicious
22 intention of depriving Plaintiff of employment opportunities and benefits that
23 must be accorded to all employees regardless of their age. Defendant has retained,
24 promoted and coddled employees and managers known by it to be vicious in that
25 they are prejudiced against older employees. This conduct by Defendant was, and
26
27
28

1 is, despicable, cruel and oppressive. The Plaintiff is therefore entitled to an award
2 of punitive damages in an amount to be proven at trial.

3
4 92. In bringing this action, Plaintiff has been required to retain the services of
5 counsel. Pursuant to **California Government Code § 12965(b)**, she is entitled to
6 and hereby requests an award of attorney fees and costs of suit.

7 **WHEREFORE**, Plaintiff prays for judgment as more fully set forth herein below.

8 **FOURTH CAUSE OF ACTION**

9
10 **Harassment In Violation of FEHA
(Hostile Work Environment)**

11 Cal. Govt. Code Sections 12900 et. seq.

12 **(As to all Defendants)**

13 93. Plaintiff realleges and incorporate paragraphs 1 through 49 with the same force
14 and effect as if fully pleaded at length herein

15 94. Jurisdiction in this court is invoked pursuant to the **FAIR EMPLOYMENT AND**
16 **HOUSING ACT ["FEHA "], i.e., Gov. Code § § 12900, 12921, 12926, 12940 and**
17 **12965, specifically Section 12940 (j).**

18 95. Defendants are comprised of entities and/or individuals with an obligation under
19 the law to assure an environment in which its employees can work freely without
20 fear of harassment.

21 96. Defendants have allowed, condoned, enabled and refused to prevent the
22 harassment of Plaintiff, by themselves, agents, managerial, and other employees.

23 Said harassment included, but is not limited to, the following:

24 (A) Making false accusations against the plaintiff:

25 (B) Falsely accusing plaintiff of criminal acts

26 (C) Threatening Plaintiff with termination when he would not engage
27 in racial discrimination;

28 (D) Verbally threatening Plaintiff with threat of termination;

- (E) Ongoing excessive and disproportionate scrutiny of Plaintiff conduct;
- (F) Defendants at all times creating and condoning a hostile work environment for Plaintiff;
- (G) Defendants at all times creating and condoning an intolerable work environment for Plaintiff;
- (H) Public humiliation of Plaintiffs by Defendants;
- (I) Racially motivated disrespect toward Plaintiff; and
- (J) Wrongfully Terminating Plaintiff and replacing plaintiff with 23 year old non-African American.

97. The harassment described in the preceding paragraphs and otherwise described in detail herein was and is so severe and pervasive that the working conditions of the Plaintiff was altered into a hostile and unsafe work environment.

98. The harassment described in the preceding paragraph and otherwise described in detail herein was and is so severe and pervasive that the working conditions of the Plaintiff constituted "harassment" of the Plaintiff pursuant to **Cal. Govt. Code Section Section 12940 (j)**.

99. Repeatedly and persistently at all times relevant herein, the Plaintiff herein complained to management of the harassment described herein, but such harassment never and has never ceased.

100. As a result of the aforesaid acts of Defendants, Plaintiff has, and continues to suffer, monetary damages in an amount which is currently unascertained. Plaintiffs will therefore request leave of the court to amend this Complaint to state

1 the amount of all such damages when they have been ascertained, or upon proof at
2 the time of trial.

3
4 101. As a result of the aforesaid racial harassment, the Plaintiff has been held up to
5 great derision and embarrassment with his fellow workers, customers, friends,
6 members of the community and families, and has suffered emotional distress
7 because Defendants demonstrated to him that they would not recognize nor accept
8 him as an employee solely because of their race and religion and in retaliation for
9 plaintiff's complaints. Plaintiff is informed and believes that the Defendants and
10 their management acted deliberately for the purposes of injuring him as alleged
11 above. Defendants, by and through their managing agents and employees, further
12 acted intentionally and unreasonably because they knew and/or should have
13 known that their conduct was likely to result in severe mental distress. Plaintiff
14 therefore seeks damages for such emotional distress in an amount to be proven at
15 time of trial.

16
17
18
19 102. Plaintiff is informed and believes and thereon alleges that this cause of action is
20 not preempted by the California Workers' Compensation Act on the grounds that
21 harassment is not a risk or condition of Plaintiffs' employment.

22
23 103. Because of the wrongful acts of Defendants as herein above alleged, Plaintiff
24 has been and will in the future be required to employ physicians and surgeons to
25 examine, treat and care for him and will incur additional medical expenses in an
26 amount to be proven at the time of trial.

1 104. In doing the acts set forth above, Defendants acted as herein alleged with a
 2 conscious disregard of Plaintiff's rights to a non discriminatory work place.
 3 Defendants have acted in utter disregard of their obligations under the law. The
 4 managing agents of Defendants have made conscious decisions to establish and to
 5 allow the existence of a hostile work place. In addition, said managing agents
 6 have knowingly retained and promoted vicious employees, including managers,
 7 known by Defendants to be prejudiced against African American employees and
 8 employees over the age of 40. This conduct by Defendants was, and is, despicable,
 9 cruel and oppressive. The Plaintiff is therefore entitled to an award of punitive
 10 damages in an amount to be proven at trial.
 11

12 105. In bringing this action, Plaintiff has been required to retain the services of
 13 counsel. Pursuant to Government Code § 12965(b), they are entitled to an award
 14 of attorney fees.
 15

16 WHEREFORE, Plaintiff prays for judgment as more fully set forth herein below
 17

18 FIFTH CAUSE OF ACTION

19 **Wrongful Termination in Violation of Public Policy**

20 **(AS TO Defendants Radio Shack)**

21 106. The facts alleged in paragraphs 1 through 49 are hereby incorporated by
 22 reference with the same force and effect as if fully pleaded at length herein.
 23

24 107. Jurisdiction is invoked in this court pursuant to the California Supreme Court
 25 case of Tamney v. Atlantic Richfield Company (1980) 27 Cal. 3d 167.
 26

27 108. There is a fundamental and well established public policy of this state against
 28 discrimination in employment on the basis of race, age, sex and national origin.

1 Said public policy is embodied inter alia in Article I, Section 8 of the California
2 Constitution.

3 109. There is also a fundamental and well established public policy of this state
4 against discrimination on the basis of age and race. That public policy is also
5 embodied inter alia in the California Fair Employment and Housing Act.

6 110. Defendants have a long standing policy and practice of making personnel
7 decisions on the basis of factors prohibited by the public policies of this state.

8 111. The policy and practice described in paragraphs -- was applied specifically to
9 the Plaintiff in this case as follows:

10
11 (A). Termination of the employment of Plaintiff Frank Allen based upon
12 race;

13 (B). Termination of the employment of Plaintiff Frank Allen for race
14 discrimination in defense of others; and

15 (C). Termination of the employment of Plaintiff Frank Allen based upon
16 Age;

17 112. As a result of the aforesaid acts of Defendants, Plaintiff has suffered, and is
18 continuing to suffer, a loss of wages/salary, benefits, and other forms of
19 compensation in an amount which is currently unascertained. As a result of
20 the discriminatory and retaliatory acts of Defendants the Plaintiff herein faces
21 substantial diminution of their future earning capacity in an amount which is
22 currently unascertained. Plaintiff will therefore request leave of the court to
23 amend this Complaint to state the amount of all such damages when they have
24 been ascertained or upon proof at the time of trial.

25 113. As a result of the aforesaid acts of discrimination and retaliation in
26 employment, the Plaintiff has been held up to great derision and
27 embarrassment with their fellow workers, customers, friends, members of the
28 community and families, and has suffered emotional distress because

1 Defendants have demonstrated to them that it will not recognize nor accept
2 them as employees solely on their merits but rejects them based upon
3 prohibited classifications described above.

4 114. Plaintiff is informed and believes that the Defendant and its management acted
5 deliberately for the purposes of injuring them as alleged above.

6 115. Defendants, by and through their managing agents and employees, further
7 acted intentionally and unreasonably because it knew and/or should have
8 known that its conduct was likely to result in severe mental distress. Plaintiff
9 therefore seeks damages for such emotional distress in an amount to be proven
10 at time of trial.

11 116. Because of the wrongful acts of Defendants as herein above alleged, Plaintiff
12 has been and will in the future be required to employ physicians and surgeons
13 to examine, treat and care for them and will incur additional medical expenses
14 in an amount to be proven at the time of trial.

15 117. In doing the acts set forth above, Defendants acted as alleged intentionally and
16 with a conscious disregard of the Plaintiff's right to equal employment
17 opportunities and to be free from discrimination on the basis of prohibited
18 factors. Defendants have acted and continue to act in utter disregard of its
19 obligations under the public policy of this state. Defendants have made
20 conscious decisions to discriminate against its employees for reasons
21 prohibited by law, specifically the Plaintiff herein, by treating him adversely in
22 the manner described above.

23 118. In addition, said managing agents have retained, protected, promoted and
24 coddled vicious employees known by it to discriminate against its employees.
25 This conduct by Defendants was, and is, despicable, cruel and oppressive. The
26 Plaintiff is therefore entitled to an award of punitive damages in an amount to
27 be proven at trial.
28

SIXTH CAUSE OF ACTION

Intentional Infliction of Emotional Distress - Common Law

(As to All Defendants)

126. Plaintiff realleges and incorporates paragraphs 1 through 49 with the same force and effect as if full pleaded at length herein.

127. This is an action for damages pursuant to the common law of the State of California as mandated by the California Supreme Court in the decision of Royo v. Kliger, (1990) 52 Cal. 3d 65.

128. The acts of Defendants and agents, including managers of Defendant, as described above, were extreme and outrageous. This includes, but is not limited to, the following:

(A) Wrongful termination based on Age and Race;

(B) Falsely accusing plaintiff of criminal acts;

(C) Plaintiff was threatened and told to terminate his African American and Hispanic employees because they "did not fit the image" defendants wanted. Plaintiff was told he needed to "upgrade" his staff. Plaintiff was threatened that if he did not do this, he would be terminated. Plaintiff, as the Store Manager felt he had a superb and competent staff, which was reflected by his store's success. Plaintiff, rightfully and loyally defended his staff. Soon after, plaintiff was retaliated against and terminated;

(D) Hostile work environment,

WHEREFORE, Plaintiff prays for judgment as more fully set forth herein below.

DEMAND FOR JURY TRIAL

Plaintiff Frank Allen hereby demands trial of this matter by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Frank Allen prays for relief as follows:

129. For compensatory damages;

130. For monetary damages to compensate for the emotional distress suffered by Plaintiff;

131. For punitive damages in an amount appropriate to punish Defendants for their wrongful and malicious conduct and to set an example for others;

132. For prejudgment and post-judgment interest accrued to date;

133. For costs of suit incurred herein;

134. For attorneys fees and costs pursuant to **California Government Code § 12965(b)** and other provisions of law; and

135. For such other relief that this Court may deem just and proper.

Dated:

LAW OFFICES OF MAYOR JOSEPH L.
ALIOTO & ANGELA ALIOTO

By: 

ANGELA ALIOTO

Attorney for Plaintiff Frank Allen

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FRANK ALLEN,

Plaintiff,

vs.

CASE NO.
CV 11 3110 WHA

RADIO SHACK CORPORATION, et al.,

Defendants.

DEPOSITION OF FRANK ALLEN, JR.

February 15, 2012

Reported by:
WENDY C. BROWN
C.S.R. NO. 5697

PATRICIA CALLAHAN REPORTING
Certified Shorthand Reporters
(510) 885-2371 (415) 788-3993
Facsimile (510) 247-9775

1 BE IT REMEMBERED THAT, pursuant to Notice of
2 Taking Deposition, and on Wednesday, February 15, 2012,
3 commencing at the hour of 9:51 o'clock a.m. of the said
4 day, at the law offices of MILLER LAW GROUP, 111 Sutter
5 Street, Suite 700, San Francisco, California, before me,
6 WENDY C. BROWN, a certified shorthand reporter, State of
7 California, personally appeared FRANK ALLEN, JR., a
8 plaintiff in the above-entitled court and cause,
9 produced on behalf of the defendant, who, being by me
10 first duly sworn, was then and there examined and
11 interrogated by Attorney Tracy Thompson, representing
12 the law offices of MILLER LAW GROUP, 111 Sutter Street,
13 Suite 700, San Francisco, California, counsel for the
14 defendant.

15

16 APPEARANCES OF COUNSEL

17

18 FOR THE PLAINTIFF:

19

20 LAW OFFICES OF MAYOR JOSEPH L. ALIOTO &

21 ANGELA ALIOTO

22 BY: ANGELA MIA VERONESE, ESQ.

23 700 Montgomery Street

24 San Francisco, California 94111

25

PATRICIA CALLAHAN REPORTING

1 you ever had any conversation with Bill Hamilton about
2 either your claims or his claims?

3 A. No.

4 Q. Have you ever had any conversations with
5 Basem Saba about your claims?

6 A. No.

7 Q. Do you know why Carlos left Radio Shack?

8 A. No, I don't.

9 Q. Did he ever tell you that he had been terminated
10 unfairly or words to that effect?

11 A. No.

12 Q. Do you know whether he resigned voluntarily?

13 A. No.

14 Q. You just don't know anything about the
15 circumstances surrounding his leaving?

16 A. No.

17 Q. Okay.

18 All right. So you started working for Radio
19 Shack in 1997; is that right?

20 A. Yes.

21 Q. And what was your first position?

22 A. Salesperson.

23 Q. And who was your store manager?

24 A. Whew. I have no idea.

25 Q. Okay. It was a while ago, so

1 A. Yes.

2 Q. Okay. And what was your position at that time?

3 A. Store manager.

4 Q. And what was the store number there? You don't
5 remember that?

6 A. No.

7 Q. Okay. And how long did you stay at that
8 location?

9 A. Oh, about seven -- seven months.

10 Q. Who were you reporting to at that time?

11 A. Gary Martinez.

12 Q. He was your district manager?

13 A. Yes.

14 Q. And do you know who the regional manager was at
15 that time?

16 A. I don't remember his name.

17 Q. Okay. So after seven months, where did you go?

18 A. To 938 Market Street.

19 Q. I'm sorry what was the number?

20 A. 938 Market Street.

21 Q. 938 Market Street. And what was the store
22 number there?

23 A. 3830.

24 Q. Okay. And did you stay at 938 Market Street,
25 Store 3830, until April of 2010?

PATRICIA CALLAHAN REPORTING

1 A. Yes.

2 Q. Who was your district manager when you started
3 working at Store No. 3830?

4 A. Gary Martinez.

5 Q. Do you know how long, approximately,
6 Gary Martinez stayed as your district manager?

7 A. Oh, about five years, I believe, approximately.

8 Q. I understand you're doing your best to estimate,
9 right?

10 A. Yes.

11 Q. Okay. And who became your district manager
12 after Gary Martinez?

13 A. Hani.

14 Q. Is that Hani Alzaghari?

15 A. Yes.

16 Q. And do you remember when that was,
17 approximately, what year?

18 A. No, I do not.

19 Q. And do you know who Hani reported to, in terms
20 of the regional director?

21 A. Uh, Tom.

22 Q. Is that Tom Schultz?

23 A. Yes.

24 Q. How would you characterize your working
25 relationship with Hani Alzaghari?

PATRICIA CALLAHAN REPORTING

1 A. I think it was a good one.

2 Q. I take it that you enjoyed working with Hani?

3 A. I did.

4 Q. You liked him, personally?

5 A. Yes.

6 Q. Do you believe that he treated you fairly?

7 A. Yes.

8 Q. Did you have any difficulties at all in working
9 with Hani?

10 A. No.

11 Q. Did Hani ever provide any written form of
12 discipline to you during the time you reported to him?

13 A. No.

14 Q. Did you ever get any kind of corrective action
15 record from Hani at all?

16 A. Correction --

17 Q. A corrective action record or report.

18 A. I don't understand the question.

19 Q. Okay. Have you ever heard the term "corrective
20 action record" or "corrective action report" at Radio
21 Shack?

22 A. No.

23 Q. Okay. Have you ever -- go ahead, I'm sorry.

24 A. The monthly review.

25 Q. I'm sorry, monthly review?

1 A. A monthly review or review.

2 Q. Okay. So when you say "a monthly review," what
3 do you mean by that?

4 A. Meaning that when the district manager comes in
5 to the store, he writes a review of what he sees need to
6 be done in the store.

7 Q. And when did that practice start, to your
8 knowledge?

9 A. It has always been.

10 Q. Okay.

11 A. Whenever he comes in, he will write a review.

12 Q. Okay. Is that something like a store visit
13 report?

14 A. Yes.

15 Q. Okay. And how frequently during the time you
16 reported to Hani did he visit you at the store,
17 approximately, or on average?

18 A. Four times a year.

19 Q. And your recollection is that his practice was
20 on each of those four occasions that he would give -- he
21 would prepare some form of store visit report following
22 the visit?

23 A. Yes.

24 Q. And the store visit report would note things
25 that you were doing well and things where you needed

PATRICIA CALLAHAN REPORTING

1 improvement?

2 A. Yes.

3 Q. And do you believe that Hani was fair in his
4 assessment when he completed those store visit reports?

5 A. I questioned him.

6 Q. I'm sorry?

7 A. I questioned him on some of them.

8 Q. When you say you questioned him, did he respond
9 to your questions?

10 A. Uh, yes.

11 Q. And after he responded to your questions and
12 explained, were you satisfied with his explanations?

13 A. No.

14 Q. Okay, so you're saying that sometimes you
15 disagreed with him?

16 A. Yes.

17 Q. Okay. And when you disagreed with Hani on his
18 store visit reports, did you put that in writing?

19 A. No.

20 Q. But you would have oral discussions with him?

21 A. Yes.

22 Q. And how did he respond when you told him that
23 you -- in general, how would he respond when you told
24 him you disagreed with him?

25 A. Um, I responded by saying that, "This is my job,

PATRICIA CALLAHAN REPORTING

1 so I'll get it done, even though I disagree" -- "I'll
2 get it done; I'll take care of it."

3 Q. Okay.

4 A. "I'll make sure it's done."

5 Q. And was he polite in his dealings with you when
6 you told him you disagreed with him?

7 A. Yes.

8 Q. So you would say -- if Hani criticized you in
9 some way in a store visit report, you might say to him,
10 "I disagree with it, but I'll make sure the issue gets
11 taken care of," or words to that effect?

12 A. Yes.

13 Q. Were there ever any times where Hani gave you
14 some negative feedback where you agreed that he was
15 right?

16 A. Yes.

17 Q. And I take it from what you said earlier -- but
18 correct me if I'm wrong -- but overall, you thought that
19 Hani treated you fairly?

20 A. Yes.

21 Q. Did Hani ever give you any indication at all
22 that he bore you any kind of animus because you're
23 African-American?

24 A. No.

25 Q. Did you ever hear Hani make any kind of

PATRICIA CALLAHAN REPORTING

35

1 derogatory comments based on your race?

2 A. No.

3 Q. Did you ever hear Hani make any jokes about
4 race, your race?

5 A. No.

6 Q. Did anyone ever tell you that they had heard
7 Hani make any derogatory comments or jokes about race?

8 A. No.

9 Q. Throughout the time of your employment at Radio
10 Shack, did you ever hear any employee make any
11 derogatory comments to you about race?

12 A. When you say "employee," I don't understand what
13 you mean, an employee.

14 Q. Anybody working at Radio Shack.

15 A. Regardless of their position?

16 Q. Yes.

17 A. About race?

18 Q. Yes.

19 A. The word "race" wasn't used.

20 Q. Let me clarify the question, okay?

21 Again, during your employment at Radio Shack,
22 did you ever hear any employee make any derogatory
23 comment about your race or about African-Americans? Do
24 you understand that question?

25 A. Yes.

PATRICIA CALLAHAN REPORTING

1 Q. Okay.

2 A. No more than the wrong image, or not the right
3 image of people.

4 Q. Why don't you tell me who made the comments, and
5 then I'll follow up with you.

6 A. Donna made the comment that we were -- we had
7 the wrong image of people in the store, and we need to
8 change the image of the store.

9 Q. And when you say "Donna," that's Donna Ocampo?

10 A. Yes.

11 Q. Other than Donna Ocampo -- and we'll come back
12 to this. I would just right now like you to give me a
13 list of anyone, at any time during your employment, who
14 you felt made a derogatory comment about your race or
15 about African-Americans?

16 A. No.

17 MS. VERONESE: And just to clarify, that's what
18 he has heard?

19 MS. THOMPSON: Correct. Fair enough.

20 Q. Okay. So let me -- I'll ask the question again,
21 just to make sure, and I'll follow up on that.

22 So my question was, have you personally, at any
23 time during your employment, heard any Radio Shack
24 employee make any comment or joke about your race or
25 about African-Americans.

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1 Can you read that back? I want to make sure I
2 got it.

3 (Record read.)

4 MS. THOMPSON: Q. So just so we're clear, I'm
5 asking you about comments you've personally heard.

6 A. No.

7 Q. Have people told you that they heard someone, an
8 employee at Radio Shack, make a derogatory comment about
9 your race or about African-Americans?

10 A. No.

11 Q. All right. Did you continue reporting to
12 Hani Alzaghari until -- well, who was your next district
13 manager after Hani? Let's start there.

14 A. Donna.

15 Q. That's Donna Ocampo?

16 A. Yes.

17 Q. Do you remember when, approximately, she became
18 your district manager?

19 A. I believe she officially took over the
20 responsibility in February.

21 Q. February of 2010?

22 A. Yes.

23 Q. When was the first time you met Donna Ocampo?

24 A. The first time I met her was when Greg and her
25 came into the store.

PATRICIA CALLAHAN REPORTING

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1 Q. When you say Greg, do you know Greg's last name?

2 A. Pat -- uh

3 Q. Was it Greg Patakas?

4 A. Greg Patapas.

5 Q. Patakas.

6 A. Patakas.

7 Q. Okay. And had you ever met Greg Patakas before
8 the time he and Donna came into your store?

9 A. No.

10 Q. How many times have you ever actually met
11 Greg Patakas?

12 A. Twice.

13 Q. So let me make sure I understand something,
14 though. Had you ever met Donna Ocampo at any time
15 before 2010?

16 A. I have seen her.

17 Q. Did you see her at company meetings or events?

18 A. Yes.

19 Q. Because she was a store manager and you were a
20 store manager?

21 A. Yes. She was district manager.

22 Q. Okay. But before sometime in early 2010, you'd
23 never actually been introduced to her?

24 A. No.

25 Q. So the first time that you met both Greg Patakas

PATRICIA CALLAHAN REPORTING

1 and Donna Ocampo was when they came into your store in
2 early 2010?

3 A. Yes.

4 Q. And do you remember what month that was?

5 A. First part of December, I believe it was.

6 Q. I'm sorry?

7 A. First part of December.

8 Q. First part of December of what year?

9 A. 2009. It was a year before -- it was beginning
10 of the year, 'cause I believe --

11 Q. I'm a little confused now.

12 A. Okay.

13 Q. I thought you said that you -- well, maybe I
14 misunderstood. So, you're saying that you met
15 Greg Patakas and Donna Ocampo sometime in December of
16 2009?

17 A. Yes.

18 Q. Okay. And what was your understanding of what
19 Donna's -- Ms. Ocampo's position was at that time?

20 A. I think she was the area vice president. I
21 believe. I'm not for sure.

22 Q. Okay. And was Greg Patakas with her?

23 A. Yes.

24 Q. And do you know what Mr. Patakas' position was
25 at this time?

PATRICIA CALLAHAN REPORTING

1 A. I believe he was the regional president,
2 regional vice president.

3 Q. Well, was it your understanding that he was
4 above Donna in the hierarchy or below her?

5 A. Above.

6 Q. Okay. But you thought Donna was the area vice
7 president?

8 A. Yes.

9 Q. And was Hani Alzaghari your district manager at
10 the time of this visit in 2009?

11 A. Yes.

12 Q. Was anybody with Greg -- I'll just call it Greg
13 and Donna -- at the time of this visit in 2009?

14 A. Yes.

15 Q. Who else?

16 A. Uh, loss prevention manager.

17 Q. And who was that?

18 A. I'm not for sure of his name.

19 Q. Was it David Gonsolin, or don't you know?

20 MS. VERONESE: Don't guess.

21 THE WITNESS: Don't know.

22 MS. THOMPSON: Q. Yeah, your lawyer has made a
23 good point here. I don't want you to guess if you
24 really don't know, but if you have some recollection or
25 some idea of who it was, then I'd like you to tell me,

1 okay. So, as you sit here now, you have no idea of the
2 name of the loss prevention manager?

3 A. No.

4 Q. Okay. Was it a man?

5 A. Yes.

6 Q. Okay. Other than the loss prevention manager,
7 Greg and Donna, was there anybody else that was part of
8 this visit in 2009?

9 A. Yes.

10 Q. Who else?

11 A. Human resource.

12 Q. Who was that?

13 A. I don't know her name.

14 Q. Okay. It was a woman?

15 A. Yes.

16 Q. By the way, the loss prevention manager, what
17 race was he?

18 A. She --

19 Q. The loss prevention manager.

20 A. Uh, white.

21 Q. A white male. Do you have any idea how old,
22 approximately?

23 A. 40. In his 40's.

24 Q. Okay, and you said the HR manager was a female,
25 right?

PATRICIA CALLAHAN REPORTING

1 A. Yes.

2 Q. And what was her race?

3 A. African-American.

4 Q. Was it Shaan Smith?

5 A. The name sounds familiar, but I'm not for sure.

6 Q. Okay. And how old was this female human
7 resources manager, approximately?

8 A. In her 40's.

9 Q. Had you ever met the loss prevention manager
10 before this visit in 2009?

11 A. No.

12 Q. Have you ever met the human resources manager
13 before this visit in 2009?

14 A. No.

15 Q. Had you ever spoken to the loss prevention
16 manager on the telephone, to your knowledge, before this
17 visit?

18 A. No, not to my knowledge.

19 Q. Have you ever had any kind of interaction at all
20 with the loss prevention manager before this visit in
21 2009?

22 A. No.

23 Q. Okay. How about the human resources manager;
24 had you ever had any kind of interaction with her,
25 either on the telephone, e-mail, in person, before the

1 A. Yes.

2 Q. Right?

3 A. Yes.

4 Q. So do you remember which employees specifically
5 were present?

6 A. Bruce, Rosetta.

7 Q. Okay. What's Bruce's last name?

8 A. I don't know.

9 Q. Okay. Did you know at one time and have just
10 forgotten?

11 A. I did know at one time.

12 Q. Okay. What's Bruce's race?

13 A. Uh, he's white.

14 Q. His approximate age, as far as you could
15 observe?

16 A. About 46.

17 Q. Okay. Rosetta, is that Rosetta Holmes?

18 A. Yes.

19 Q. And what race is she?

20 A. Black.

21 Q. Do you know what her approximate age was?

22 A. About 26.

23 Q. Okay. Anyone other than Bruce and Rosetta?

24 A. Victoria.

25 Q. Do you know Victoria's last name?

PATRICIA CALLAHAN REPORTING

1 A. No.

2 Q. And what race is Victoria?

3 A. Hispanic.

4 Q. And her approximate age, to the best of your
5 observation?

6 A. About twenty.

7 Q. Twenty years old?

8 A. Yes.

9 Q. Anyone else, employees?

10 A. No.

11 Q. But as you sit here now, you have a specific
12 recollection of those three individuals being present at
13 the time of this visit in 2009?

14 A. Yes.

15 Q. Okay. Now, did you know that you were going to
16 be visited by Donna, Greg, loss prevention, human
17 resources, before the visit actually occurred? In other
18 words, did anyone tell you, "We're coming to your store
19 on this date"?

20 A. Everyone was on alert.

21 Q. What do you mean by that?

22 A. Uh, there was a possibility that they may be
23 coming. It wasn't for sure.

24 Q. Who told you that there was a possibility that
25 these individuals might be visiting your store?

PATRICIA CALLAHAN REPORTING

1 A. District manager.

2 Q. And that would have been Hani?

3 A. Yes.

4 Q. So tell me what Hani told you about that,
5 please.

6 A. "We have some people that's in the area. Make
7 sure your store is clean, neat, organized, because we
8 don't know if they're coming or not. So be ready."

9 Q. And was that conversation you had with Hani on
10 the telephone?

11 A. Yes.

12 Q. Was that a district -- was that a call where all
13 the store managers were on the line with Hani -- I mean,
14 all the store managers in Hani's district, or was this a
15 personal call between you and Hani?

16 A. It was a personal call between me

17 Q. Did you discuss any other subjects on that call,
18 other than what you've testified to?

19 A. No.

20 Q. Okay. Did Hani initiate that call or did you
21 call him?

22 A. He called.

23 Q. Okay. And so what you recall is that Hani
24 called you, and your understanding was that his specific
25 purpose in calling you was to let you know that there

PATRICIA CALLAHAN REPORTING

1 are some people in management that were in the area and
2 that they might come to your store?

3 A. Yes. He called all the stores.

4 Q. Okay. So Hani called all the stores in his
5 district to alert them?

6 A. Yes.

7 Q. And how do you know he called all the stores?

8 A. Because once we got the call, we, as managers,
9 began to call each other to see --

10 Q. Okay.

11 A. -- where -- where are they.

12 Q. Okay. Trying to keep track of them, right?

13 A. Yes.

14 Q. Okay. Fair enough. So after Hani called you,
15 you had conversations with the other store managers in
16 the district to find out, you know, if they had any news
17 about where these people were or whose stores they were
18 coming to, that kind of thing?

19 A. Yes.

20 Q. So as far as you understood it, everyone got the
21 same call from Hani?

22 A. Yes.

23 Q. Okay. How far in advance of the visit was this
24 phone call from Hani?

25 A. Actually, Hani just called and let us know he

1 was coming, because he didn't know where they were. So
2 there was not a time.

3 Q. No, I understand that he couldn't tell you when
4 they were coming, but what I want to know is how much
5 time went by between the time he called you to put you
6 on alert and the time that the people actually showed
7 up. Was it the same day, was it a week, was it hours?

8 A. Hmm ... I'm not for sure.

9 Q. Okay. Did you do anything in response to the
10 phone call from Hani in terms of your store?

11 A. Yes.

12 Q. Okay. Can you tell me what you did?

13 A. Um, cleaned it up, organized it, um, got it
14 ready for them.

15 Q. So other than cleaning the store and organizing
16 it, did you do anything else to get ready?

17 A. No more than the washing, the organizing the
18 displays and

19 Q. Okay. And were you satisfied with the condition
20 of the store after you got it cleaned and organized?

21 A. Yes.

22 Q. All right. So, did anyone tell you what the
23 purpose of the visit was? In other words, when Hani
24 alerted you that this group of people were in the area,
25 did he tell you what the purpose of the visit would be?

PATRICIA CALLAHAN REPORTING

1 A. No.

2 Q. Did you ask him?

3 A. No.

4 Q. Did you have any understanding of what the
5 purpose was for this group of people to be visiting?

6 A. Well, it was Christmastime, so ... normally
7 people -- they said that people were going to come out
8 and visit the stores during Christmastime, to check to
9 see how it's supposed to look, are they ready for
10 Christmas.

11 Q. Okay. So that was a normal practice every year?

12 A. Yes.

13 Q. Okay. People from the corporate office or
14 higher management would visit the stores in early
15 December, roughly --

16 A. Yes.

17 Q. -- to see how the stores looked?

18 A. Yes.

19 Q. Okay. So, did this group of people, that
20 is, Donna, Greg, the loss prevention manager and
21 Shaan Smith, did they all arrive at the same time?

22 A. No.

23 Q. Who got there first?

24 A. Donna, loss prevention and human resources.
25 They came in first.

1 Q. They all came in together?

2 A. Yes.

3 Q. And how much after they had arrived did Greg
4 Patakas arrive?

5 A. About three or four minutes after.

6 Q. Okay. So when the first group walked in, what
7 were you doing; where were you?

8 A. Walking -- walking in the store.

9 Q. When they came into the store, did they say
10 anything to you?

11 A. Yes.

12 Q. Did they introduce themselves?

13 A. Yes, they did.

14 Q. And did you introduce yourself?

15 A. Yes, I did.

16 Q. Did you introduce your employees?

17 A. No, I didn't.

18 Q. Were the employees -- where did the
19 introductions take place, on the sales floor?

20 A. On the sales floor.

21 Q. And where were the employees?

22 A. Up front. We have two sections in the store.

23 Q. So when you say the employees were up front,
24 what does that mean?

25 A. Mean that there's two sections in the store.

PATRICIA CALLAHAN REPORTING

1 Q. Okay.

2 A. And you have to walk through a doorway to get to
3 one part of the store, and they was all up front -- in
4 the front of the store, and I was in the back of the
5 store.

6 Q. Okay. So you said that there were three
7 employees present, and all three of them were at the
8 front of the store?

9 A. Yes.

10 Q. And you were in the back of the store?

11 A. I was in the back of the store.

12 Q. So the group of people had to walk by the
13 employees to go to the back of the store where you were?

14 A. Yes.

15 Q. Okay. So apart from the introductions, what
16 happened next?

17 A. Um, they walked in, and they warned me.

18 Q. Wait. When you say, "They warned me," what do
19 you mean?

20 A. Not to say anything. Just listen, because he
21 had just left Oakland, and he had just fired a manager
22 over there for talking back to him.

23 Q. Okay. Let me back up here.

24 Who gave you this warning, as you've described
25 it?

PATRICIA CALLAHAN REPORTING

1 A. Donna and the loss prevention manager.

2 Q. Did this comment come right after the
3 introductions had been made?

4 A. Yes.

5 Q. And who was speaking, Donna or the loss
6 prevention manager?

7 A. Both of them was speaking.

8 Q. Do you remember who said what?

9 A. I believe Donna said that -- "Just listen to
10 what he have to say."

11 Q. Now, when she said, "Just listen to what he has
12 to say," did she say who the "he" was she was referring
13 to?

14 A. Greg.

15 Q. Okay. Did she mention his name?

16 A. No.

17 Q. You had never met Greg before?

18 A. Never had.

19 Q. Did you have some understanding that someone
20 name Greg Patakas was coming to your store?

21 A. Yes.

22 Q. And is that because Hani told you?

23 A. Yes.

24 Q. So did Hani tell you exactly who was coming in
25 the phone call where he --

PATRICIA CALLAHAN REPORTING

1 A. He didn't know exactly who was coming, but he
2 knew Greg was coming.

3 Q. And did he tell you who Greg was?

4 A. Yes.

5 Q. And what did he say about Greg?

6 A. "The new regional president is coming."

7 Q. "The new regional president is coming"?

8 A. Region -- yes.

9 Q. And he said, "His name is Greg Patakas"?

10 A. Yes.

11 Q. Did he say anything else about how --

12 A. He said he never met him before.

13 Q. Did he say he knew anything about him at all?

14 A. No.

15 Q. Okay.

16 So after the introductions, going back to the
17 actual store visit, Donna Ocampo made the comment to
18 you, "Just listen to what Greg Patakas has to say," or
19 words to that effect?

20 A. Yes.

21 Q. Did she say anything else?

22 A. No.

23 Q. Now, who made the comment that someone had just
24 been fired in Oakland?

25 A. The human resource manager.

1 MS. VERONESE: At that moment?

2 MS. THOMPSON: Right.

3 THE WITNESS: No.

4 MS. THOMPSON: Q. Okay. Did anyone else say
5 anything, other than what you've testified to, before
6 Greg Patakas walked into the store?

7 A. The human resource manager, I heard her say that
8 what he was doing was not right.

9 Q. Is that a comment that she made to you?

10 A. Um, she made a comment -- she was talking to
11 Donna, and I heard her say it.

12 Q. Okay. Did you hear her say anything other than
13 what Greg Patakas was doing was not right, or words to
14 that effect?

15 A. No.

16 Q. Did you ask you her what she meant by that?

17 A. No.

18 Q. Is there any reason why you didn't?

19 A. Um, because it wasn't part of my conversation.

20 Q. Okay.

21 A. So I didn't ask her.

22 Q. Okay. So this is a conversation between the HR
23 manager and Donna Ocampo that you happened to
24 overhear --

25 A. Yes.

1 Q. -- in the store?

2 A. Yes.

3 Q. Before Greg Patakas arrived?

4 A. Yes.

5 Q. Okay. Was there any other conversation or
6 statements made by anyone that you could hear before
7 Greg Patakas entered the store?

8 A. No.

9 Q. Okay. So when Greg Patakas did walk into the
10 store, did he introduce himself to you?

11 A. Yes.

12 Q. Did you introduce yourself to him?

13 A. Yes.

14 Q. What did he say, if anything?

15 A. He introduced his self, and then he began to ask
16 me, "How long have you been with Radio Shack?"

17 Q. And was he polite when he asked that?

18 A. No.

19 Q. How would you characterize him when he asked
20 that question?

21 A. Very hostile.

22 Q. What makes you think he was hostile?

23 A. Tone of voice.

24 Q. Okay. So in a hostile tone of voice, he asked
25 you, "How long have you been with Radio Shack?"

PATRICIA CALLAHAN REPORTING

1 A. Yes.

2 Q. And did you respond to him?

3 A. Yes.

4 Q. And what did you tell him?

5 A. Uh, thirteen years.

6 Q. And what, if anything, was said after that?

7 A. Um, and he looked at me, looked around the
8 store, and he said, "You may have a year with Radio
9 Shack."

10 Q. Okay. Did he say anything else?

11 A. Um, he asked me was I running the store, was I
12 in charge of running the store, and I said, "No, my
13 district manager tell me what I need to do in the
14 store."

15 Q. All right. Let me back up here a little bit.

16 When he made the comment, "You may have a year
17 with Radio Shack," or words to that effect, did you say
18 anything in response?

19 A. No.

20 Q. Okay. And then his next question to you was,
21 "Are you in charge of running the store," or words to
22 that effect?

23 A. Yes.

24 Q. And your response was, "No, my district manager
25 tells me what I need to do," or words to that effect?

PATRICIA CALLAHAN REPORTING

1 A. Yes.

2 Q. And what, if anything, did Greg Patakas say in
3 response?

4 A. He kept asking me questions, trying to insinuate
5 that my district manager was not doing his job and was
6 not helping me to run the store.

7 Q. When you say that he was insinuating that, do
8 you remember what -- what words he said to --

9 A. "Are you running the store, yourself? You don't
10 have" -- "your district manager's not coaching you."

11 Q. Did he say anything else, other than what you've
12 already told me?

13 A. Uh, he repeated, "How long have you been here?
14 How many years have you been with Radio Shack?"

15 Q. Okay. Did you say anything at all after -- When
16 he made the comment, "You're running the store yourself;
17 your DM is not coaching you," or words to that effect,
18 did you say anything at all?

19 A. I said that my district manager comes down and
20 give me idea on how to operate the store. He calls me
21 up and talk to me about what I need to do to the store.

22 Q. And what else did Greg Patakas say, if
23 anything -- again, other than what you've already told
24 me?

25 A. And he talked about the back room.

PATRICIA CALLAHAN REPORTING

1 Q. So, who was present when this was actually
2 happening? Was Donna Ocampo actually part of this
3 conversation?

4 A. No.

5 Q. Was Shaan Smith part of the conversation?

6 A. He was from the beginning --

7 MS. VERONESE: Clarify. Shaan is a female.

8 MS. THOMPSON: Yes.

9 Q. Right? Shaan Smith is a female?

10 A. Right. She was -- she was up front; she was not
11 around. Only the loss prevention manager was there.

12 Q. Okay. So when you were having this conversation
13 with Greg Patakas, it was just you Greg and the loss
14 prevention manager?

15 A. Yes.

16 Q. And where was Donna Ocampo?

17 A. She was up front.

18 Q. Okay. And Shaan Smith was also up front?

19 A. Yes.

20 Q. When you say "up front," do you mean the front
21 part of the store?

22 A. There's a stockroom. We was in the stockroom.

23 Q. Okay.

24 A. She was on the sales floor.

25 Q. All right. So I thought you said -- correct me

PATRICIA CALLAHAN REPORTING

1 if I'm wrong -- that you were on the sales floor, the
2 back of the sales floor, when the group came in?

3 A. Right.

4 Q. At some point, did you move into the stockroom?

5 A. We moved into the stockroom.

6 Q. So who moved into the stockroom?

7 A. Greg, myself and loss prevention president.

8 Q. How soon after Greg Patakas walked into the
9 store did you move into the stockroom for the
10 conversation?

11 A. No more than a minute. It was a short period of
12 time. We went straight to the back room.

13 Q. And who led the group to the back room; was
14 that -- why did you wind up in the back room?

15 A. Greg took us there.

16 Q. Okay.

17 So Greg took you and the loss prevention manager
18 to the back room, and then Donna and Shaan Smith were at
19 the front of the store with the employees?

20 A. Yes.

21 Q. Okay. So Donna and Shaan, to the best of your
22 knowledge and belief, could not hear any of the
23 conversation between you and Greg and the loss
24 prevention manager?

25 A. No.

PATRICIA CALLAHAN REPORTING

1 Q. Did the loss prevention manager say anything
2 during this discussion in the back room?

3 A. Yes.

4 Q. What did he say?

5 A. He talked about, um, changing things around in
6 the back room. Making things more secure.

7 Q. Did he say anything else that you can remember?

8 A. No.

9 Q. Did Greg Patakas say anything else, other than
10 what you've already testified to?

11 A. He talked about rearranging the store.

12 Q. Anything else?

13 A. Uh, no, not that I

14 Q. How long was Greg Patakas actually in the store,
15 to the best of your recollection, on this occasion in
16 December of 2009?

17 A. Twenty minutes, tops.

18 Q. How long was the rest of the -- well, was
19 Donna Ocampo -- let me withdraw that.

20 Did all of them leave at the same time?

21 A. Yes.

22 Q. Okay. And after about twenty minutes, Greg,
23 Donna, the loss prevention manager and Shaan Smith all
24 walked out of the store?

25 A. Yes.

PATRICIA CALLAHAN REPORTING

1 Q. Okay. Other than what you've already testified,
2 did Greg say anything else?

3 A. Yes.

4 Q. What else did he say?

5 A. Um, we had -- he had just -- we had -- during
6 the time he came in, we had just received 120 cases of
7 merchandise. We had put away a hundred cases of
8 merchandise. And I had 20 cases of merchandise in the
9 back room. And he said that the store was unorganized.
10 And I explained to him that we had just gotten 120 cases
11 in, and he said the store still should have been neater.
12 But it was the back room that was in a mess. The front
13 part of the store was fine.

14 Q. Have you told me everything now that you can
15 recall that Greg Patakas said during this store visit in
16 December of 2009?

17 A. Yes.

18 MS. THOMPSON: Let's take a ten-minute break,
19 okay? Is that all right?

20 MS. VERONESE: Yeah, that's fine.

21 THE VIDEOGRAPHER: Okay. We're off the record
22 at 11:03.

23 (Recess taken.)

24 THE VIDEOGRAPHER: Okay. We're back on the
25 record at 11:11.

1 Q. What did you think he would be a witness -- what
2 facts did you believe Basem Saba knew that you thought
3 related to your claims in the lawsuit?

4 A. Well, he was at the meeting. They had a special
5 meeting, um, a couple days after Greg had left, and they
6 asked me to explain how and what was said, and how he
7 treated me, at the meeting.

8 Q. All right. When you say there was a special
9 meeting after Greg had left, when was this special
10 meeting?

11 A. The meeting was on a Thursday.

12 Q. When, though, what year?

13 A. Um, 2009.

14 Q. So was it before Christmas of 2009?

15 A. Before Christmas.

16 Q. And who called this meeting, to your knowledge?

17 A. Hani.

18 Q. Was this a face-to-face meeting?

19 A. Yes.

20 Q. Okay. And where did it take place?

21 A. 2141 Geary -- not Geary. Was it Geary? Yes.

22 Q. 2141 Geary Boulevard?

23 A. No, no, no, no, not Geary. It was not Geary.

24 But it was in the district office.

25 Q. Was that on 19th Avenue?

PATRICIA CALLAHAN REPORTING

1 A. 19th -- thank you.

2 Q. Okay. So, how soon after Greg Patakas had been
3 in your store did this special meeting, as you've
4 described it, take place?

5 A. It was approximately two or three days.

6 Q. Okay.

7 A. It was an emergency meeting.

8 Q. And it was your understanding that Hani called
9 the meeting?

10 A. Yes.

11 Q. Did Hani tell you why he was calling the
12 meeting?

13 A. To talk about the visit.

14 Q. To talk about the visit to your store or to all
15 of your stores, as far as you knew?

16 A. As far as my store, or --

17 Q. I'm sorry?

18 A. -- all of the stores. I'm not for sure what the
19 meeting was about.

20 Q. Okay. Well, did Hani -- how did you learn about
21 the meeting?

22 A. He called up and said, "We're having a special
23 meeting, and we want all the managers to be there."

24 Q. Was this a group conference call where he said
25 this, or one on one with you?

PATRICIA CALLAHAN REPORTING

1 A. One on one.

2 Q. So in his telephone call with you, he's saying,
3 "I'm calling a special meeting for all the managers,"
4 and did he say why he was calling the meeting in that
5 conversation with you?

6 A. No.

7 Q. Did you ask him, "What's the purpose of this
8 meeting" --

9 A. No.

10 Q. -- or words to that effect?

11 A. No.

12 Q. Okay. So what time of day was the meeting?

13 A. Morning.

14 Q. Do you know what time it started?

15 A. About 10:00 o'clock.

16 Q. And how long did it last, approximately?

17 A. About five hours.

18 Q. So the meeting went from 10:00 till about 3:00
19 p.m.?

20 A. Yes.

21 Q. And can you remember who was present?

22 A. All the managers was there. Donna was there.
23 Um, a couple other district managers was there. The
24 district manager for Oakland was there.

25 Q. Who was that?

PATRICIA CALLAHAN REPORTING

1 A. I forgot his name.

2 Q. Okay. All right. So, what store managers do
3 you remember being present?

4 A. All 22 store managers was there in the district.
5 The whole district was there.

6 Q. So how many people total were at this meeting,
7 approximately?

8 A. 25, 30 people.

9 Q. Between 25 and 30 people?

10 A. Yes.

11 Q. Do you have any idea of why Donna Ocampo was
12 there?

13 A. Uh, she was the area president, and she was with
14 him during the visit.

15 Q. To your knowledge, had Greg visited other stores
16 on that same day or in that same time frame besides
17 yours?

18 A. Yes.

19 Q. Okay. Who led the meeting?

20 A. Hani.

21 Q. Tell me what Hani said when he opened up the
22 meeting.

23 A. I don't remember what was said at the meeting --
24 I mean, how he opened up the meeting.

25 Q. All right.

1 A. But he asked me -- he asked me -- Alex
2 Basherri --

3 Q. Wait, Alex Basherri?

4 A. Basherri.

5 Q. Is he another store manager?

6 A. Yes.

7 Q. Okay. So --

8 A. Greg -- Greg walked in his store. What he said,
9 that his nerves were still upset behind the conversation
10 that he had had with Greg.

11 Q. Okay.

12 A. And he didn't want to remember.

13 Q. So -- okay. So Alex Basherri spoke at the
14 meeting and said --

15 A. No, he -- yes, go ahead.

16 Q. I'm sorry, I didn't mean to -- did I interrupt
17 you?

18 A. No, I interrupted you. I'm sorry.

19 Q. Well, I -- I apologize, but I just want to make
20 sure I understand what you just said. So Alex Basherri
21 was at the meeting, and he spoke about how his nerves
22 were still upset from the visit that Greg had made made
23 to his store?

24 A. Yes.

25 Q. And did you speak at this meeting?

PATRICIA CALLAHAN REPORTING

1 A. Yes.

2 Q. Do you remember what you said at the meeting?

3 A. Um, I told them how Greg came into the store and
4 what he had said to me. How he walked in the store and
5 looked at me and said, "How long have you been with
6 Radio Shack," and looked me up and down and said, "You
7 may have another year with Radio Shack." Then I told
8 him he repeated that a couple times, and, um, his
9 attitude that he had while he was talking to me. I
10 talked to them and I explained that all to them.

11 Q. You told the whole group?

12 A. I told the whole group.

13 Q. And did other people present tell you they had
14 similarly had other unpleasant experiences with Greg?

15 A. He only saw two stores.

16 Q. How do you know that?

17 A. Um, because they mentioned it at the meeting.

18 Q. So the only two stores that he saw was yours and
19 Alex Basher's?

20 A. Yes.

21 Q. As far as you knew?

22 A. Yes. In the Bay Area, in this district.

23 Q. Was anyone from human resources present at this
24 meeting, to your knowledge?

25 A. I don't remember.

PATRICIA CALLAHAN REPORTING

1 Q. Was Shaan Smith there?

2 A. I don't remember.

3 Q. So am I correct in understanding -- did
4 Alex Basherri speak before you?

5 A. Yes.

6 Q. And he got -- he got up in front of the group
7 and said -- I'm sorry. Did you want to say something?

8 A. No, go ahead.

9 Q. Okay. Did Alex Basherri stand up and talk about
10 what had happened when Greg had visited his store?

11 A. No, he did not stand up.

12 Q. Okay. So he sat down?

13 A. He sat down.

14 Q. Were you all sitting around a table?

15 A. Yes.

16 Q. And did you stand up when you were speaking?

17 A. Yes.

18 Q. Okay. Is there some reason you stood up?

19 A. I was asked to come up front.

20 Q. Okay. Who asked you to come up front?

21 A. Hani.

22 Q. So you came -- when Hani asked you to come up
23 front, you got up from your seat and walked to the front
24 of the room and stood in front of the group?

25 A. Yes.

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1 Q. And then you told the whole group what had
2 happened when Greg Patakas had visited your store?

3 A. Yes.

4 Q. And did you pretty much tell them everything you
5 told me in this deposition, in terms -- did you tell the
6 group the same thing basically you've told me?

7 A. Yes.

8 Q. After you had given your -- after you had spoken
9 about that experience, did anyone in the group say
10 anything?

11 A. Uh, a lot of them was upset about what was said
12 and how he was questioning the length -- the time that I
13 have with Radio Shack and how long I've been with Radio
14 Shack and, um

15 Q. Okay. I'm sorry, I may have asked you this, and
16 I apologize, but did Alex speak first about his
17 experience, or did you speak first?

18 A. Alex never spoke about his experience. He said
19 that he could not speak about his experience.

20 Q. Okay. I'm sorry. So Alex told the group --

21 A. That he was --

22 Q. -- that he couldn't talk about what happened
23 because he was so upset, or words to that effect?

24 A. Yes.

25 Q. Have you ever spoken to Alex about what his

PATRICIA CALLAHAN REPORTING

1 experience was like with Greg Patakas?

2 A. Briefly, yes.

3 Q. Did Alex tell you about what had happened when
4 Greg had visited his store?

5 A. Yes.

6 Q. What did he tell you about that?

7 A. That he had never in his entire life had anybody
8 come to him and talk to him the way that this man had
9 talked to him. He had never in his life had anyone to
10 approach him and to get in his face and point his finger
11 in his face the way that this man did. That's what Alex
12 told me.

13 Q. Did he say anything else that you can remember?

14 A. From that point, he said, "I don't want to talk
15 anymore about it," and left it -- left it alone, but he
16 said he has never been treated that way before.

17 Q. Is Alex still working for Radio Shack, do you
18 know?

19 A. Yes, he is.

20 Q. So after you spoke to the group, did Donna
21 Ocampo say anything?

22 A. No.

23 Q. Did Hani say anything?

24 A. They was quiet, looked at each other, and
25 gradually changed the conversation.

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1 Q. So what do you mean, they gradually changed the
2 conversation?

3 A. After I got up and explained what was said to me
4 and how he treated me, they looked at each other and
5 went on to talk about other things about the store.

6 Q. But after you had spoken, I thought you said --
7 and correct me if I'm wrong -- that other people made
8 comments after you gave your -- after you told them what
9 happened to you?

10 A. (Nods head.)

11 Q. Other people in the group started talking about
12 what you had said?

13 A. The store managers.

14 Q. Okay. Do you remember any of them specifically?

15 A. Um, Nina, she spoke out.

16 Q. What did Nina say?

17 A. That that was not right what they was doing;
18 they was wrong. That the employees should not conduct
19 themselves like that with their employees. It was not
20 professional. And that was sort of the overall
21 conversation at the time in the meeting.

22 Q. Do you remember anybody other than Nina speaking
23 out --

24 A. Uh --

25 Q. -- of the store managers?

1 A. No.

2 Q. Are you saying other people did speak out and
3 you just can't remember who they were or --

4 A. That's --

5 Q. -- what they said?

6 A. That's what I'm saying, yes.

7 Q. Okay. Even if you can't remember who, can you
8 remember anything that was said specifically at the
9 meeting by the store managers, other than what you've
10 testified to?

11 A. I heard a lot of -- that "They should not have
12 treated you that way; that that was wrong, what they
13 did." Um --

14 Q. Anything else? I'm sorry? No?

15 A. No.

16 Q. Sorry.

17 Did Donna say anything else about Greg Patakas
18 in this discussion?

19 A. She said that, "He's gone now," and now that
20 he's gone, she said that she would be there, and he
21 would be mostly dealing with her, so we would have her
22 to deal with and not him, because he will be going back
23 to Texas.

24 Q. And did you have any reaction to that, when she
25 made that comment?

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1 A. My comment was -- I didn't say anything. I
2 didn't say anything.

3 Q. So when Donna made the comment that, "He's gone
4 now; he's gone back to Texas. You won't have to deal
5 with him anymore," did you say anything in response?

6 A. No, I didn't say anything, but I thought
7 something.

8 Q. What did you think?

9 A. Things rolled downhill. If her boss say, "Do
10 this," then she's going to have to have that attitude
11 that her boss want her to have, and if that's the
12 attitude he has, then she have to have the same attitude
13 in order to keep her job.

14 Q. So that was your concern?

15 A. That was my concern.

16 Q. And did you voice that concern to anyone at that
17 time?

18 A. Um, I talked to some managers about it.

19 Q. Okay. Who did you talk to about that?

20 A. Um, I talked to um, Mayunk, Alex Basher.

21 Q. I'm sorry, what was the first one? Maya?

22 A. Mayunk. Mike.

23 Q. Oh, okay. I'm sorry, Mike goes by Maya?

24 A. Yes.

25 Q. Do you know how to spell that?

1 A. M-a, M-a -- no, I don't.

2 Q. So Mike and Mayunk were the same person?

3 A. Yes.

4 Q. So you spoke to Mike, Alex Basher?

5 A. And Darlene.

6 Q. Darlene or Darling?

7 A. Darlene.

8 Q. Is Darlene and Darling the same person?

9 A. Yes.

10 Q. Okay. That's a store manager?

11 A. Yes.

12 Q. Former store manager?

13 A. Former store manager.

14 Q. Okay. Did Hani say anything in the discussion,
15 this meeting, about Greg Patakas?

16 A. He said that Greg was coming back in two weeks.

17 Q. I'm a little confused, because I thought -- I
18 thought you said that Donna told the group that he's
19 gone back to Texas and you wouldn't have to deal with
20 him anymore, or words to that effect?

21 A. She did.

22 Q. And then Hani said, "He's coming back in two
23 weeks"?

24 A. Yes.

25 MS. VERONESE: Well, I think we need to clarify.

1 I don't think you meant gone, like terminated. I think
2 he went back home. He's --

3 THE WITNESS: Right. In other words, she's
4 saying that -- is it my turn?

5 MS. VERONESE: Go ahead.

6 THE WITNESS: She's saying that after he's
7 finished his business, then she would be in charge.
8 After he finished his visits.

9 MS. THOMPSON: Q. Okay.

10 A. So after he come back, then we would be actually
11 dealing with Donna.

12 Q. Okay. So let me just make sure I understand
13 something. When Donna was saying that Greg was gone and
14 he went back to Texas, you understood that to mean that
15 he was only gone temporarily, and that he would
16 ultimately be coming back?

17 A. Yes.

18 Q. Okay. And then Hani says that he's coming back
19 in two weeks?

20 A. Yes.

21 Q. Did Hani say anything else, other than that Greg
22 would be coming back in two weeks?

23 A. He said he's coming back and looking at the
24 stores again.

25 Q. Did he have any suggestions or recommendations

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1 or directions, based upon the fact that Greg would be
2 coming back to look at the stores in two weeks?

3 A. Um, Greg give him some instructions on what to
4 do.

5 Q. I'm not -- but what I'm trying to find out is
6 whether Hani told the store managers -- gave them any
7 instructions.

8 A. Yes.

9 Q. Okay. What did Hani say about that?

10 A. To go to the store and pull up the planograms,
11 to make sure that all the planograms are exactly the way
12 that they were designed to be; make sure that everyone
13 is aware of their performance.

14 Q. Did Hani say anything else?

15 A. He said quite a bit, but I'm -- I don't remember
16 it all.

17 Q. Okay. So, have you now told me everything that
18 you can recall about what Hani said at this district --
19 I'm sorry, this manager meeting that took place in late
20 2009?

21 A. Yes.

22 Q. So was this a regularly scheduled district
23 meeting, as you understood it?

24 A. No, it was not a regular. It was a special. It
25 was very unusual, because normally we do not have

1 meetings in November. Or December.

2 Q. Okay. Did Hani say anything to indicate that he
3 was concerned about how he would be viewed by Greg if
4 the stores were not in good condition?

5 A. Yes.

6 Q. What did he say about that?

7 A. He was very nervous.

8 Q. Did he say that he was nervous?

9 A. Uh, no, he was -- he said that his job is in
10 jeopardy.

11 Q. That's what he told the whole group?

12 A. Yes.

13 Q. Did he say why he thought his job was in
14 jeopardy?

15 A. No.

16 Q. Did you ever make any complaint to human
17 resources about the way you felt that Greg had treated
18 you in the store visit in December of 2009?

19 A. I complained to -- at the meeting, I made the
20 complaint.

21 Q. Okay. So at the meeting, did you ask either
22 Hani or Donna to take any action in response to the
23 complaint you were making at the meeting?

24 A. I didn't ask them to take some action. I
25 presented it to them and thought maybe that they would

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1 automatically do it, since I was presenting it to them,
2 but they didn't.

3 Q. What did you want -- did you tell them what you
4 wanted them to do?

5 A. No, I said, "What can I do?"

6 Q. You said, "What can I do," meaning what?

7 A. Meaning, "What can I do" -- "once I presented it
8 to you, what do I do next?"

9 Q. Okay. Did anyone respond to that?

10 A. No one responded to that.

11 Q. Okay. Did you ever talk to Shaan Smith about
12 the way you felt you'd been treated by Greg Patakas in
13 December of 2009?

14 A. No.

15 Q. Is there any reason why you didn't go to
16 Shaan Smith and talk about the way you felt you'd been
17 treated?

18 A. No. Not, not

19 Q. Let me make sure I understand something. Did
20 Donna Ocampo -- well, was Donna Ocampo any part at all
21 of the conversation in the back room with you and
22 Greg Patakas and the loss prevention manager?

23 A. I didn't see her back there at all.

24 Q. Okay. And was Shaan Smith at any time part
25 of the discussion in the back room among you and

PATRICIA CALLAHAN REPORTING

1 Greg Patakas and the loss prevention manager?

2 A. No.

3 Q. To your knowledge, were either Donna Ocampo or
4 Shaan Smith in a position to overhear anything that
5 Greg Patakas said to you?

6 A. In the front of the store, when we first had the
7 conversation, yes, and then from there, we went in the
8 back room, and the only one that I saw was the loss
9 prevention president.

10 Q. Okay.

11 A. And he wasn't there all the time.

12 Q. So part of the time it was just you and
13 Greg Patakas alone in the back room?

14 A. Yes.

15 Q. So, how long were you and Greg with Shaan Smith
16 and Donna Ocampo before you went to the back room?

17 A. About a minute. Not that long.

18 Q. And during that first minute of conversation,
19 was that when you were basically introducing yourselves
20 to each other?

21 A. Yes.

22 Q. Did Greg Patakas say anything other than
23 introducing himself during the part of the time that you
24 were with Donna Ocampo and Shaan Smith, before you went
25 into the back room?

1 MS. VERONESE: I'm sorry, could you ask that
2 question one more time?

3 MS. THOMPSON: Sure. Can you read it back?

4 (Record read by the reporter:

5 "Question: Did Greg Patakas say anything
6 other than introducing himself during the
7 part of the time that you were with Donna
8 Ocampo and Shaan Smith, before you went into
9 the back room?")

10 MS. VERONESE: Okay.

11 THE WITNESS: How long had I been with Radio
12 Shack.

13 MS. THOMPSON: Q. Okay. Anything else?

14 A. Give me the -- the overlook, looked me from head
15 to toe and said, "You may have a year with Radio Shack."
16 And then we went back in the back room.

17 Q. Okay.

18 A. He sat down at my desk.

19 Q. I'm sorry, he sat at your desk?

20 A. He sat at my desk.

21 Q. And were you standing or sitting?

22 A. I was sitting.

23 Q. And where was the loss prevention manager?

24 A. Uh, he was walking up and down the stockroom.

25 Q. How big is the back room, roughly?

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1 A. About the size of this space here.

2 Q. Can you give me a number of --

3 A. Twenty feet by twenty feet.

4 Q. Twenty by twenty?

5 A. Yeah.

6 Q. Is that right?

7 A. (Nods head.)

8 MS. VERONESE: About.

9 MS. THOMPSON: Q. No, approximately, right?

10 A. Approximately, approximately.

11 Q. Okay. So was the loss prevention manager in a

12 position to hear what you and Greg Patakas were saying

13 to one another?

14 A. Um, I'm not for sure. It's possible, but I'm

15 not for sure. Because there was another room that we

16 were in. We were not in the stockroom. He was in the

17 stockroom.

18 Q. I see.

19 A. And we was in the office room.

20 Q. Okay. So you couldn't even see him; is that a

21 fair statement?

22 A. I saw him passing by.

23 Q. Okay. You saw him walking back and forth into

24 the stockroom?

25 A. Yes.

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1 Q. From the stockroom onto the sales floor?

2 A. Yes.

3 Q. Okay. But once he was -- went into the
4 stockroom, you do not know where he was?

5 A. No.

6 Q. Okay. Now, when you say that -- and correct me
7 if I misstate anything -- you said that Mr. Patakas
8 looked you up and down. Can you tell me what you mean
9 by that?

10 A. Meaning that he was looking at my hair, looking
11 at my mustache, looking at my appearance, looking at how
12 I was dressed, um, and he looked at me and he made a
13 evaluation and said that, "You may have a year with us."

14 Q. Okay. Did Mr. Patakas at any time make any
15 express reference to your race?

16 A. Not to my recall.

17 Q. When you said that he was looking you up and
18 down, can you give me an estimate, how long did that
19 take, a second, two seconds, five seconds? What's your
20 best recollection?

21 A. Oh, about three to five seconds.

22 Q. Did he raise his voice to you?

23 A. Oh, yes.

24 Q. He did?

25 A. Yes.

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1 Q. So was he shouting?

2 A. Not really a shout, but a very firm, stern
3 discipline attitude.

4 Q. So was he yelling, do you think, or just
5 speaking in a loud voice?

6 A. Speaking in a loud voice. Harsh loud voice.

7 Q. Did he swear at you or use any profanity?

8 A. No, not

9 Q. So, again, have you told me everything that you
10 can remember about that store visit with Greg Patakas in
11 December of 2009?

12 A. Yes. That I remember.

13 Q. Now, when you were in the back room with
14 Greg Patakas on this occasion, was the door open or
15 closed?

16 A. Open.

17 Q. Okay. And how far away were the employees from
18 where you were in the back room, best estimate?

19 A. There's the office, stockroom. 20, 25 feet.

20 Q. Okay.

21 A. Two, three separate different -- separate rooms.

22 Q. Okay. Did any of your employees ever -- did you
23 ever discuss this incident with any of your employees?

24 A. Yes.

25 Q. Okay. When did you first discuss the incident

1 of the December 2009 store visit with Greg Patakas with
2 any of your employees?

3 A. Almost right after he left.

4 Q. Was this one-on-one conversation with one of the
5 employees, or was it you and all three of the employees?

6 A. It was a group.

7 Q. Okay. So right after Greg Patakas and
8 Donna Ocampo and Shaan Smith and the loss prevention
9 manager left the store, you had a group conversation
10 with your employees?

11 A. Yes.

12 Q. Did any of the employees tell you that they had
13 heard anything?

14 A. No.

15 Q. Did you ask them whether they had heard anything
16 that had been said to you?

17 A. I did not ask them.

18 Q. As you sit here now, do you know one way or the
19 other whether any of your employees heard anything that
20 was said between you and Mr. Patakas?

21 A. I'm not for sure.

22 Q. Okay. Tell me what you remember about the group
23 conversation with your employees right after Mr. Patakas
24 left?

25 A. We talked about how and what he had said to me,

1 how he had treated me, and the conversation, and then
2 from there we began to talk about the appearance of the
3 store.

4 Q. So you told your employees what Mr. Patakas had
5 said to you?

6 A. Yes.

7 Q. And you told them how he had treated you?

8 A. Yes.

9 Q. Did any of them say anything in response to
10 that?

11 A. They were somewhat upset.

12 Q. How do you know they were upset?

13 A. Uh, they voiced their opinion.

14 Q. What did they say?

15 A. That I should have said something -- I should
16 have expressed myself to him more and been a little bit
17 more verbal with him.

18 Q. And what did you say when they told you that?

19 A. I said it wasn't the time to do that. That's
20 what I believe I said to them.

21 Q. Okay. Did Donna Ocampo say or do anything on
22 that store visit that you thought was inappropriate in
23 any way?

24 A. No.

25 Q. How about Shaan Smith, did Shaan Smith say or do

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1 anything that you thought was not appropriate in any
2 way?

3 A. No.

4 Q. What about the loss prevention manager, did he
5 say or do anything that you thought was not appropriate?

6 A. No.

7 Q. Okay.

8 A. Most of them was --

9 MS. VERONESE: Is there a question?

10 THE WITNESS: Sorry.

11 MS. THOMPSON: Q. Is there anything you want to
12 clarify or --

13 MS. VERONESE: Go ahead.

14 MS. THOMPSON: Q. If you're trying to clarify
15 something you said, you're allowed to do that.

16 A. Okay.

17 Q. Wait. I'm sorry. Did you want to add anything?

18 MS. VERONESE: You started to say something, and
19 there wasn't a question pending, so --

20 THE WITNESS: Okay. I'm sorry, no.

21 MS. THOMPSON: Q. All right. That's fine.

22 All right. Well, we got off on this because we
23 were talking about the meeting at the district office,
24 but we talked about conversations that you'd had about
25 your claims with Basem Saba. Have you told me all the

1 say anything else to one another about either your
2 claims or his claims?

3 A. No.

4 Q. Okay. Then you said you talked to Bill a couple
5 of times. When was the next time you spoke with Bill
6 about that?

7 A. That was -- that was prior to when Bill was
8 fired, he was talking about how -- what had happened to
9 him, and I was talking about what happened to me, and
10 that was it.

11 Q. Okay. So you're saying this is the second
12 conversation with Bill Hamilton?

13 A. Yes.

14 Q. And so during that second conversation, you and
15 Bill spoke to one another about what had happened to
16 each of you?

17 A. Yes.

18 Q. Do you remember what Bill said about that during
19 that discussion?

20 A. No, I don't.

21 Q. Do you remember what you said to Bill in that
22 conversation?

23 A. No more than what had already been said about
24 what was being said to me and how he treated me.

25 Q. All right. After that December 2009 store visit

PATRICIA CALLAHAN REPORTING

1 that you've already told me about, did you ever see
2 Mr. Patakas again?

3 A. Yes.

4 Q. When was the next time you saw Greg Patakas?

5 A. Oh, I believe it was in January.

6 Q. January of 2010?

7 A. Yes.

8 Q. Okay. And where did that take place?

9 A. 3830.

10 Q. At your store?

11 A. Yes.

12 Q. Was Mr. Patakas alone or was he with anybody?

13 A. He was with someone else.

14 Q. Who was he with?

15 A. Uh, Dave Charles.

16 Q. I'm sorry?

17 A. Dave. Dave was taking his place.

18 Q. Okay. So, wait. So Dave's last name is
19 Charles?

20 A. I believe it is, Charles.

21 Q. Had you ever met Dave Charles before this
22 meeting or this store visit in January of 2010?

23 A. No.

24 Q. Was there anybody else present from outside the
25 store other than Greg Patakas and Dave Charles?

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1 A. Um, Donna was there, and I don't remember anyone
2 else.

3 Q. Did the three of them, that is, Greg, Donna and
4 Dave, all come to your store at the same time?

5 A. Yes.

6 Q. Had you been given any advanced notice that
7 those individuals would be visiting your store on that
8 day?

9 A. Well, he had said that he was coming back, but I
10 didn't know when he was coming back.

11 Q. Okay, fair enough. But did you receive any
12 advanced notice around the time that they showed up at
13 the store that he would be coming in Jan -- at that day?

14 A. Yes.

15 Q. Okay. Who told you that?

16 A. Hani.

17 Q. Okay. And what did Hani say to you?

18 A. That, "He's coming back to your store on today."

19 Q. So the day of the store visit, Hani called you
20 and said, "Greg Patakas is back in town, and he's coming
21 to your store today"?

22 A. Yes.

23 Q. Okay. So how much time went by -- between that
24 phone call from Hani and Greg Patakas actually showing
25 up at your store?

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1 A. Hours, couple hours.

2 Q. Did Hani, during the phone conversation, say
3 anything else to you about -- other than, "Greg Patakas
4 is coming to your store today"?

5 A. "Are you ready? How your store look?"

6 Q. Okay. And what did you say in response?

7 A. "Great."

8 Q. You thought your store looked great?

9 A. I thought it looked great.

10 Q. Okay.

11 So I think we need to change the tape.

12 THE VIDEOGRAPHER: Okay. This is the end of
13 tape one. We're going off the record at 11:55.

14 (A lunch recess was taken from 11:55 to 12:35
15 o'clock p.m.)

16 THE VIDEOGRAPHER: This is the beginning of tape
17 two. We're on the record at 12:35.

18 MS. THOMPSON: Q. Okay. Mr. Allen, this is the
19 continuation, obviously, of your deposition, and you're
20 still under oath. You understand that, right?

21 A. Yes.

22 Q. Okay. So right before the break, we were
23 talking about the store visit in January of 2010 to your
24 store by Greg Patakas, Dave Charles and Donna Ocampo,
25 okay? So, what time of day did the --

1 MS. VERONESE: I'm sorry. Dave Charles?

2 MS. THOMPSON: I thought that was the name that
3 you gave me.

4 THE WITNESS: It was.

5 MS. VERONESE: It was. Okay. I'm sorry. I
6 didn't --

7 MS. THOMPSON: That's all right.

8 THE WITNESS: I believe that's his name. I'm
9 not for sure.

10 MS. THOMPSON: Q. Okay. No, I understand that.

11 But you know his first name was Dave?

12 A. Yes.

13 Q. And you believe his last name was Charles?

14 A. Yes.

15 Q. And your understanding, I think you testified
16 earlier, was that he was the replacement for
17 Greg Patakas?

18 A. Yes.

19 Q. Okay.

20 MS. VERONESE: Okay. Sorry.

21 MS. THOMPSON: Q. And you had never met him
22 before then?

23 A. No.

24 Q. Had you heard anything about Dave Charles?

25 A. No.

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1 Q. By the way, did you ever see Greg Patakas
2 interact with any other store manager?

3 A. No.

4 Q. Okay. So what time of day did they come to your
5 store? This is January 2010.

6 A. Oh, about noontime. Approximately about
7 noontime, somewhere in that area.

8 Q. Okay. I understand it's approximate, right?

9 A. (Nods head.)

10 Q. Yes?

11 A. Yes.

12 Q. Okay. Sorry.

13 Did you have employees in the store that day?

14 A. Yes.

15 Q. Do you remember who they were?

16 A. No, I don't, but -- no, I don't. But probably
17 the -- probably the same ones that was there, because
18 they -- the evening shift.

19 Q. Okay. Well, how many -- in the 2009, 2010 time
20 frame, how many employees did you have in your store,
21 reporting to you?

22 A. Five. Five. We was five. I believe it was
23 five or six.

24 Q. Five to six --

25 A. Yes.

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1 Q. -- employees? Did you have an assistant
2 manager?

3 A. No.

4 Q. So the five or six employees were all sales
5 associates?

6 A. Yes.

7 Q. Now, you mentioned three of them before. You
8 said there was Bruce, Rosetta and --

9 A. And I totally forgot Nabor.

10 Q. I'm sorry?

11 A. Nabor.

12 Q. You said there was Bruce, Rosetta and Victoria,
13 right?

14 A. Yes.

15 Q. Do you remember the names of any others?

16 A. I have one other that I forgot about. His name
17 is Nabor.

18 Q. Can you spell his first name?

19 A. N-a-b-v -- no, I don't.

20 Q. Wait. "N" -- you think it begins with an "N"?

21 A. Nabor, yes.

22 Q. N-a-b-o-r?

23 A. Yes.

24 Q. And that's a male employee?

25 A. Yes.

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1 Q. And what's his racial background, do you know?

2 A. Hispanic.

3 Q. Okay. So we've got Bruce, Rosetta, Victoria and
4 Nabor. Was there anybody else?

5 A. That was there, no.

6 Q. That --

7 A. I have other employees.

8 Q. Who were your other employees?

9 A. Rosetta -- not Rosetta. Erica Beard.

10 Q. Erica Bird?

11 A. Beard.

12 Q. Beard. Okay. And what was her background,
13 racial background?

14 A. Black.

15 Q. Okay. Anyone else?

16 A. No.

17 Q. Okay. So you had a total of five employees
18 reporting to you during the 2009, 2010 time frame,
19 right?

20 A. Yes.

21 Q. And they're Bruce, Rosetta, Victoria, Nabor and
22 Erica, right?

23 A. Yes.

24 Q. Now, focusing on the January 10th, 2010, store
25 visit, who was there?

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1 A. I only remember the three.

2 Q. Which three?

3 A. Um, Greg, Dave and Donna.

4 Q. Oh. What I'm trying to find out is which of
5 your employees were present, if any.

6 A. I'm not for sure.

7 Q. Okay. All right. Did Greg, Donna and Dave all
8 walk into the store at the same time?

9 A. Yes.

10 Q. And where were you when they walked in?

11 A. I -- I don't remember where I was at. But I was
12 on the sales floor.

13 Q. Okay. So what was the first thing that either
14 you said to any of them or any of them said to you when
15 they walked into the store?

16 A. Greg said, "I told you I was coming back, so I
17 had to keep my word to say that I was coming back. So
18 I'm here."

19 Q. So Greg said words to the effect that, "I said I
20 was coming back and I had to keep my word, so I'm back,"
21 or words --

22 A. Yeah, something like --

23 Q. -- to that effect?

24 A. To that effect.

25 Q. Okay. And what was his tone of voice when he

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1 said that?

2 A. He was a different guy.

3 Q. What was he like?

4 A. Um, he was pleasant at the time.

5 Q. Okay. So he was polite?

6 A. Yes.

7 Q. Professional?

8 A. Yes.

9 Q. Friendly?

10 A. I would say.

11 Q. Okay. What else did Greg say during that store
12 visit, other than what you've just testified to?

13 A. Uh, the store looked great.

14 Q. Did he say anything else?

15 A. No.

16 Q. Did Greg, on the occasion of the January 2010
17 store visit, say or do anything that you thought was
18 inappropriate in any way?

19 A. No. Not that I remember.

20 Q. Okay. And he told you he thought the store
21 looked great?

22 A. Yes.

23 Q. Did Donna say anything to you during this store
24 visit in January of 2010?

25 A. No.

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1 Q. Did Donna say or do anything that you thought
2 was inappropriate in that store visit?

3 A. Donna didn't say too much during the store
4 visit. Greg did most of the talking.

5 Q. Okay. What else did Greg say besides what
6 you've already testified to, if you remember?

7 A. I don't remember anything else.

8 Q. How long were they in the store?

9 A. It was a short visit. It -- I don't know.

10 Q. Best estimate?

11 A. Fifteen -- fifteen, twenty minutes. I'm not for
12 sure. It wasn't that long.

13 Q. Okay. Your best estimate, it was fifteen to
14 twenty minutes?

15 A. Yes.

16 Q. And Greg was polite and professional and
17 pleasant throughout that fifteen-to-twenty-minute visit?

18 A. Yes.

19 Q. And Donna said nothing?

20 A. I didn't hear her say anything.

21 Q. Understanding that she said nothing, did she do
22 anything that you thought was inappropriate or
23 unprofessional?

24 A. I wasn't around her.

25 Q. Okay.

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1 A. I was with Greg and Dave.

2 Q. Okay. So did you have any interaction at all
3 with Donna at the January 2010 store visit?

4 A. No. No, not to my memory.

5 Q. And what about Dave? Did Dave -- did you and
6 Dave say anything to one another?

7 A. Uh, I don't remember what was said, but we did
8 talk with each other.

9 Q. And this was your very first meeting with him,
10 right?

11 A. Yes.

12 Q. And was he polite to you?

13 A. Yes.

14 Q. Professional?

15 A. Very, yes.

16 Q. Did Dave say or do anything that you thought was
17 inappropriate or offensive in any way?

18 A. No. Not then. Not that I remember.

19 Q. Did anything occur during the store visit in
20 January of 2010 that you found offensive or
21 inappropriate?

22 A. No, not then.

23 Q. Would you characterize it as a good store visit?

24 A. I thought it was.

25 Q. And Greg Patakas told you he thought it was,

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1 too, right?

2 A. Yes.

3 Q. Did anyone criticize your store at all during
4 that fifteen-to-twenty-minute store visit?

5 A. No.

6 Q. How did the visit end?

7 A. Um, Dave said that he was leaving and now it's
8 Steve responsibility now, and he's moving on, and that
9 was (inaudible) much the end of the conversation.

10 Q. Wait, I'm sorry --

11 THE REPORTER: I couldn't -- "that was" --
12 something -- "the end of the conversation."

13 THE WITNESS: Greg said that he was leaving, and
14 it was Steve's responsibility now, and he was turning it
15 over to Steve.

16 MS. THOMPSON: Q. You mean Steve or Dave?

17 MS. VERONESE: Dave.

18 THE WITNESS: Dave. Dave, I'm sorry.

19 MS. THOMPSON: Q. Yeah, we're getting kind of
20 confused here.

21 A. I'm sorry.

22 Q. So, just so the record is clear, at the end of
23 the store visit, Greg said words to the effect that he
24 was leaving, and that he was turning his job duties over
25 to Dave?

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1 A. Yes.

2 Q. Did he say anything else about that before he
3 left?

4 A. No.

5 Q. Did Dave say anything about that before he left?

6 A. No. Not that I remember.

7 Q. So as far as you were concerned, the store visit
8 ended on friendly, positive terms?

9 A. Yes.

10 Q. Did you ever see Greg Patakas again after that
11 January 2010 visit?

12 A. No.

13 Q. Did you ever have any interaction with him, with
14 Greg Patakas, after the January 2010 store visit?

15 A. No.

16 Q. Did you talk to any store managers who -- in the
17 district or otherwise -- who had been visited by
18 Greg Patakas -- again, other than what we've already
19 talked about?

20 A. No.

21 Q. Did any of the other store managers tell you
22 that they had been visited by Greg and Steve -- I'm
23 sorry, you got me doing it -- Greg and Dave in that same
24 January 2010 time frame?

25 A. Alex -- he only visited two stores that I know

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Dec. of Thompson - Exhibit 2

1 of.

2 Q. Okay. So you heard from Alex Basherri that Greg
3 and Dave also visited Alex's store in January 2010?

4 A. Yes.

5 Q. And what did Alex say about that store visit?

6 A. He didn't have anything to say about the store
7 visit.

8 Q. One way or the other?

9 A. No more than he was glad that Greg is gone.

10 Q. Okay. Did he say that the store visit in
11 January was better than what had happened in December of
12 2009?

13 A. He wouldn't comment on it.

14 Q. Okay. So Alex Basherri didn't give you any
15 information about what transpired during the store visit
16 by Greg Patakas and Dave in January 2010; is that right?

17 A. Right.

18 Q. Okay. Have you heard from any source how that
19 visit went at Alex Basherri's store?

20 A. No, I have not.

21 Q. But at some point Alex made the comment to you
22 that he was glad that Greg Patakas was gone?

23 A. Yes.

24 Q. Was it your understanding that Greg Patakas was
25 leaving the company?

1 A. No, not leaving the company.

2 Q. Okay. What was your understanding about what
3 Greg Patakas was doing?

4 A. Uh, getting a promotion.

5 Q. And who told you that?

6 A. That was the managers talk throughout the
7 district.

8 Q. Okay. So you heard from other store managers in
9 the district that Greg Patakas was getting promoted in
10 the January 2010 time frame?

11 A. Yes.

12 Q. Okay. But you don't remember who specifically
13 said that --

14 A. No.

15 Q. -- to you?

16 A. No, I don't.

17 Q. And you never saw or spoke to Greg Patakas
18 again --

19 A. No.

20 Q. -- after January?

21 A. No.

22 Q. Has anyone at Radio Shack in a supervisory or
23 management position ever treated you in a way that you
24 thought was offensive or inappropriate, other than what
25 you've already told me about Greg Patakas?

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1 A. Um, other than Donna?

2 Q. Okay. Other than Donna.

3 A. Yes.

4 Q. Anyone else?

5 A. No.

6 Q. So I just want to make sure we're clear, then.

7 The only two people at Radio Shack throughout your
8 employment that you thought treated you in a way that
9 you thought was either offensive or inappropriate were
10 Greg Patakas and Donna Ocampo?

11 A. Yes.

12 Q. Okay. Did Donna Ocampo at some point become
13 your district manager?

14 A. Yes.

15 Q. And I think you said earlier that was sometime
16 in about late February of 2010?

17 A. About that time.

18 Q. Other than seeing Donna during the store visit
19 in December of '09 and January 2010, had you had any
20 interactions with Donna before she became your district
21 manager in late February of 2010?

22 A. I have -- no, I don't remember having any --
23 being -- I don't remember her being around me at all
24 during that time.

25 Q. Okay. At some point someone told you that Donna

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Dec. of Thompson - Exhibit 2

1 is now your district manager, and you would be reporting
2 directly to her, right?

3 A. Right.

4 Q. Do you have some understanding as to what
5 happened to Hani Alzaghari?

6 A. From my understanding, that he got transferred,
7 and once he got transferred, then he got fired.

8 Q. Did you ever speak with Hani after he got
9 transferred?

10 A. No.

11 Q. So when was the last time you actually spoke
12 with Hani?

13 A. I don't remember.

14 MS. VERONESE: Speak up.

15 THE WITNESS: I don't remember.

16 MS. THOMPSON: Q. Have you had any
17 communication with Hani at any time from the time he got
18 transferred up to the present?

19 A. No.

20 Q. Did you ever speak with Hani about why he got
21 transferred?

22 A. No.

23 Q. Have you ever had any conversations with Hani
24 about why he -- Where did you learn he'd been fired; who
25 told you that?

1 A. Other managers.

2 Q. Anybody in particular?

3 A. No, no. It was just a conversation piece that
4 went through the district, went on through the district.

5 Q. Okay. Did anyone tell you why he'd been fired?

6 A. No.

7 Q. So how many times did you actually interact with
8 Donna once she became your district manager -- actually,
9 let me rephrase that.

10 How many times did you actually see Donna Ocampo
11 from the point at which she became your district manager
12 until your termination?

13 A. I saw Donna about, oh, probably about three,
14 four times. Not that many.

15 Q. So three or four times from about February 2010
16 until your employment ended?

17 A. Yes.

18 Q. And were those all store visits?

19 A. Yes.

20 Q. Or did you see her other places or times?

21 A. Store visit.

22 Q. So during that time period, that is, from
23 February to April 2010, Donna Ocampo made three to four
24 store visits to your store?

25 A. Yes.

1 Q. Right.

2 A. But she was in charge of the whole area at the
3 time, also.

4 Q. Let me make sure I understand something. You
5 say Donna was the district manager, right?

6 A. Right.

7 Q. And she reported to a regional sales director?

8 A. Yes.

9 Q. And that person reported to an area vice
10 president?

11 A. Yes.

12 Q. Okay. So you said Donna was the district
13 manager. You're saying Dave Charles was the regional
14 sales director?

15 A. Yes.

16 Q. You don't mean Todd Schrader, do you?

17 A. Todd Schrader?

18 Q. Right.

19 A. He's still in the position now.

20 Q. Have you ever heard the name Todd Schrader?

21 A. I have not --

22 Q. Okay.

23 A. -- heard.

24 Q. Okay. And I take it -- so you've never heard
25 the name Todd Schrader, and you've never met anyone

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1 named Todd Schrader?

2 A. I never met a Todd Schrader.

3 Q. And that name is completely unfamiliar to you?

4 A. Todd Schrader. Todd. Oh, okay. Now. I didn't
5 know his name.

6 Q. Well, I'm not trying to give you any ideas or
7 tell you what to say. I'm just trying to figure out if
8 you know --

9 A. There was -- there was a new guy that came in.
10 He was there for about a month, not even a month,
11 almost, that she was reporting to -- I'm not -- I never
12 knew his name.

13 Q. Who was the regional sales director, if you
14 know, at the time that your employment was terminated?

15 A. I don't know.

16 Q. Okay.

17 A. I don't know.

18 Q. Okay. Well, have you ever heard the name
19 Basem Abef?

20 A. No.

21 Q. Have you ever --

22 MS. VERONESE: Can I just ask a question?
23 There's Basem Abef and then there's another Basem?

24 MS. THOMPSON: Basem Saba.

25 Q. Right? Basem Saba was a store manager, correct?

1 Basem, and you don't know his last name?

2 A. Yes.

3 Q. Okay. So I'm not talking about him.

4 A. No.

5 Q. I'm trying to figure out whether you ever met
6 any other Radio Shack manager whose name was Basem?

7 A. No. I never met him.

8 Q. Did you ever meet any Radio Shack manager whose
9 last name was Abef?

10 A. No.

11 Q. So the name Basem Abef is new to you?

12 A. It's new to me. I --

13 Q. Okay. And Todd Schrader is also a name you've
14 never heard before?

15 A. Todd.

16 Q. Todd Schrader?

17 A. I'm not for sure. I don't remember the name.

18 Q. Okay. All right.

19 During the conversation you were having with
20 Donna Ocampo when she was telling you that your store
21 would be visited by the new regional vice president and
22 the area vice presidents in order to remodel the store,
23 was she saying that was being done to punish you in some
24 way?

25 A. No, I don't think it was to punish me.

1 there's three of you, right, according to what you just
2 said?

3 A. Three.

4 Q. You, Dave Charles and the manager of loss
5 prevention, right?

6 A. Yes.

7 Q. Okay. So can you tell me what you each said to
8 one another during that conversation?

9 A. I talked to him about securing the merchandise
10 in the store.

11 Q. What did you say about that subject?

12 A. We was in the Tenderloin, and I told him we had
13 a lot of shoplifting. And they was taking all the

14 merchandise from the back room, putting it on the floor.
15 And I said it was hard to secure the merchandise. And
16 they took all the lock and pegs off the merchandise that
17 secured the merchandise.

18 Q. Okay. So at some point you observed that --
19 that because they were putting all the merchandise on
20 the floor, and they were taking the locks off the pegs
21 so the merchandise, once it was on the floor, would no
22 longer be secured?

23 A. Yes.

24 Q. And your concern was that that would be easy for
25 someone to steal?

1 A. Would you repeat that, please?

2 Q. Yeah. You said that Donna, on her way out the
3 door, told you that it was not a good store visit, or
4 words to that effect. So my question is, after that
5 day, did you have any conversations with Donna about her
6 opinion that that was not a good store visit?

7 A. That was the first time that I had heard that I
8 have the wrong people in the store. And I need to
9 upgrade my people, because I have the wrong people in
10 the store. And -- because she was working mostly with
11 the people, and she said that I need to upgrade the
12 people in the store.

13 Q. Okay. Let me make sure of something. So this
14 was a conversation you had after the remodeling store
15 visit?

16 A. After the remodeling visit.

17 Q. Okay. So was that a face-to-face conversation?

18 A. That was a face-to-face conversation.

19 Q. Okay. And where did that take place?

20 A. Inside the store.

21 Q. How long after the remodeling visit did this
22 face-to-face conversation with Donna take --

23 A. Um --

24 Q. -- take place?

25 A. Week. I'm not for sure, about a week, two

1 weeks.

2 Q. A week or two later?

3 A. Yes.

4 Q. In that week or two that passed between the
5 remodeling store visit and this conversation with
6 Donna Ocampo, had you had any conversations with her
7 about the store visit, the remodeling store visit?

8 A. No.

9 Q. Okay. So what were your duties and
10 responsibilities as a store manager?

11 A. To train the employees, to inform them of
12 promotions, sales, the events that's going on, reviews,
13 evaluation, inventory, sales, sales performance for each
14 employee, um, merchandising.

15 Q. Okay. Is it fair to say that you, as a store
16 manager, were responsible for knowing, being familiar
17 with company policies and procedures?

18 A. Some of them, yes.

19 Q. When you say, "some of them," what do you mean
20 by that?

21 A. Um, there was so many, that we had four or five
22 books, and from that they went on line to -- I don't
23 think anybody was able to remember all the dos and
24 don'ts of Radio Shack.

25 Q. Okay, fair enough, but I'm not saying that you

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1 had to commit them to memory, but you were responsible
2 for making sure that you, as the store manager, complied
3 with company policy and procedure, right?

4 A. Yes.

5 Q. Okay. And if you had a question about the
6 company policy or procedure, as you just indicated, you
7 could go on line and find the policies?

8 A. Yes, if you could find them. If you can -- if
9 you can maneuver your way through the policy book to
10 find what you're looking for.

11 Q. Okay. And that was part of your job as a
12 manager, though, right, to know how to -- to know what
13 the company policies and procedures were?

14 A. I wouldn't say it was my job to know that,
15 because there was so many. And I don't even think --

16 Q. Again, I'm not --

17 A. -- any manager knew, "This policy says this
18 here; this policy says that." I don't think any of
19 them --

20 Q. Okay. Maybe my question's unclear. Again, I'm
21 not suggesting that you had to memorize anything, but
22 you've indicated that there were -- at one time there
23 were books that set forth the policies and procedures?

24 A. Yes.

25 Q. Okay. And if you had a question about a

1 particular policy or procedure, you could go look in the
2 book and find out what they were?

3 A. Sometime.

4 Q. Why do you say sometimes?

5 A. Because they very seldom was updated.

6 Q. Whether it's updated or not, could you go to the
7 book and look to see what policies and procedures were
8 at least in the book?

9 A. If you could find it, yes.

10 Q. If you could find what?

11 A. The information that you're looking for. It's
12 not as easy going through there and saying, "I'm looking
13 for this policy here, and there it is right there." It
14 was -- it was not that easy to do.

15 Q. All right. Leaving all that aside, I'm just
16 trying to figure out -- you were the store manager
17 for -- since 1998 --

18 A. Yes.

19 Q. -- roughly? Okay.

20 You would agree with me that it was your job, as
21 a manager, to make sure that you complied with
22 applicable policies and procedures?

23 A. Yes.

24 Q. Okay. And weren't you also responsible for
25 making sure your employees complied with company

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1 policies and procedures?

2 A. Yes.

3 Q. And if they didn't comply with company policies
4 and procedures, it was your job to educate them about
5 those policies and procedures, right?

6 A. Yes.

7 Q. And I take it you also were responsible for
8 hiring employees?

9 A. No.

10 Q. You had no responsibility for that?

11 A. No.

12 Q. Did you have any responsibility for recruiting
13 employees?

14 A. Um, we can recruit, but actually hiring, they
15 had to go through some hiring managers to be able to do
16 that.

17 Q. Okay. But is it fair to say you were
18 responsible for recruiting employees for your store?

19 A. Yes.

20 Q. And if you recruited somebody that you thought
21 would be a good employee, what steps would you take to
22 having that person get hired?

23 A. Call up one of the hiring managers and see if
24 they can set up for me to interview that person.

25 Q. Okay. And then did you have any input at all

1 into the decision in terms of whether a candidate was
2 hired or not?

3 A. Not after he going to the interviewing manager,
4 no.

5 Q. So your only role would be to recommend a
6 candidate to the recruiting manager?

7 A. Yes.

8 Q. And once you did that, you had no further input
9 or role in determining whether somebody was hired or
10 not?

11 A. No.

12 Q. Did you ever interview candidates?

13 A. Yes.

14 Q. Okay. So when -- at what point in the process
15 did you interview them?

16 A. From the beginning.

17 Q. Okay. So, again, if there was a candidate you
18 thought might qualify or be eligible for hiring, you
19 would interview that person?

20 A. Yes.

21 Q. And if you liked that person and thought they
22 might be a good employee, you would refer them to the
23 hiring manager?

24 A. Yes.

25 Q. And then it's your testimony that the hiring

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1 manager would then make the decision?

2 A. Yes.

3 Q. But wasn't it part of your job to be actively
4 looking for possible candidates for employment?

5 A. Yes.

6 Q. Did you have any role at all in hiring any of
7 the employees in your store?

8 A. No.

9 Q. Were those people all in the store at the time
10 you arrived?

11 A. They was all hired by someone else and then
12 transferred to my store.

13 Q. Okay. So -- all right. Fair enough.

14 So they had already been -- they were already
15 Radio Shack employees at the time they were assigned to
16 your store?

17 A. Yes.

18 Q. So the five employees you talked about before
19 all had been hired by somebody other than you?

20 A. Yes.

21 Q. All right. But it was your job to train them?

22 A. Yes.

23 Q. And to coach them in the performance of their
24 jobs?

25 A. Yes.

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1 Q. And to discipline them, if appropriate?

2 A. Yes.

3 Q. And that would include writing them up, if
4 necessary?

5 A. Yes.

6 Q. Were you able to terminate employees?

7 A. No.

8 Q. Who had authority to terminate, if you know?

9 A. District manager.

10 Q. Were you able to recommend to the district
11 manager if you thought an employee should be terminated?

12 A. Yes.

13 Q. Have you ever, in your career at Radio Shack,
14 recommended that an employee be terminated?

15 A. Yes.

16 Q. On how many occasions?

17 A. About three times. Not that many.

18 Q. Okay. And why did you recommend that -- on
19 those three occasions, why did you recommend that the
20 employee be terminated?

21 A. Um, conduct towards customers.

22 Q. Was that for one of them or all three of them?

23 A. For one of them.

24 Q. What about the other two?

25 A. They were not coming to work on time.

1 transferred. Bruce is still there. I'm sorry.

2 Q. Okay. Now I'm confused. So you recommend that
3 Bruce be terminated?

4 A. Yes.

5 Q. And why were you recommending that Bruce be
6 terminated?

7 A. Um, his attitude towards the customers.

8 Q. I'm sorry, what race was Bruce?

9 A. White.

10 Q. Okay. And you made that recommendation to Hani?

11 A. Yes.

12 Q. And what did Hani tell you?

13 A. Concerning Bruce?

14 Q. Yeah.

15 A. He said that there's no one else wanted to work
16 with Bruce, so Bruce had to stay there with me, and he
17 told me to work with Bruce.

18 Q. I'm sorry, so Hani -- I thought you were
19 recommending that he be terminated.

20 A. I did.

21 Q. So why did Hani -- did Hani tell you one way or
22 the other whether he made the decision to terminate
23 Bruce?

24 A. No. He told me that I had to work with him,
25 because Bruce was a -- one of the top salesmen in the

1 store -- in the district.

2 Q. Okay. So you made the recommendation to Hani
3 that Bruce be terminated because you thought he had a
4 poor attitude toward customers, and Hani said to you,
5 "You need to work with him, because he's one" -- or
6 words to that effect --

7 A. Yes.

8 Q. -- "because he's one of the top producing
9 salespeople in the" --

10 A. District.

11 Q. -- "in the district." Okay. And what did you
12 say?

13 A. I -- I didn't say anything. I just left it
14 alone.

15 Q. Okay. So had you actually written Bruce up for
16 his poor attitude towards customers?

17 A. Yes.

18 Q. On how many occasions?

19 A. Quite a few times.

20 Q. What do you mean by that?

21 A. Three, four times.

22 Q. So you're saying in Bruce's personnel file,
23 there would be three or four write-ups by you?

24 A. There should be.

25 Q. I guess I'm a little bit confused. Can you

1 A. Yes.

2 Q. Were there any other ways in which he had a bad
3 attitude toward customers?

4 A. No.

5 Q. All right. So Hani basically said, "I'm not
6 going to accept your recommendation. Bruce is one of
7 our top salespeople, and I think you need to work with
8 him," or words to that effect?

9 A. Yes.

10 Q. So now, these other two that you said were not
11 coming to work on time, what were their names?

12 A. I don't know their names. It was

13 Q. Okay. And you're saying that when you made the
14 recommendation of termination, Hani's reaction was to
15 transfer them to some other store?

16 A. Yes.

17 Q. Did Hani tell you why he wasn't accepting your
18 recommendation to terminate those people for their
19 tardiness?

20 A. No, but he did explain to me about sometime
21 people just don't get along with certain people, and
22 they may work better with someone else than they did
23 with you -- with me.

24 Q. Do you know whether those employees were
25 complaining about working with you?

1 A. No, I don't know. I never heard anything about
2 that.

3 Q. Okay. But Hani's explanation to you was that,
4 "Sometimes people might work better under different
5 managers"?

6 A. Yes.

7 Q. "So I'm going to give them a chance and transfer
8 them to another store"?

9 A. Yes.

10 Q. Okay. And did you disagree with that approach?

11 A. No.

12 Q. Was one of your duties and responsibilities
13 protection of the company's assets?

14 A. Yes.

15 Q. And the company's assets would include
16 merchandise, right?

17 A. Yes.

18 Q. It would also include any cash that was
19 received?

20 A. Yes.

21 Q. Anything else?

22 A. My responsibility?

23 Q. I'm sorry, no. What other assets were you
24 responsible for protecting that belonged to the company?
25 Besides cash and merchandise, was there anything else?

1 A. The records.

2 Q. And were you responsible -- did Radio Shack have
3 written policies with regard to the protection of
4 company assets?

5 A. They probably did.

6 Q. Did you ever see any such policies?

7 A. I never saw any.

8 Q. You never saw a single written policy dealing
9 with protection of assets?

10 A. I don't remember seeing it.

11 Q. You are aware that the company had policies with
12 respect to handling cash, right?

13 A. Once again, I have never seen that.

14 Q. Regardless of whether you've seen any policies
15 dealing with handling cash, what was your understanding
16 of what were the practices that you were supposed to
17 follow with respect to handling cash at your store?

18 A. Um, make sure that the money's deposited into
19 the bank. Make sure that there's a proper amount of
20 money to open up and operate the business with.

21 Q. So did you have cash registers in your store?

22 A. Yes.

23 Q. And did the register -- was there a drawer that
24 was part of the cash register?

25 A. Yes.

1 don't want to have a whole lot of ones inside the
2 drawer, when you open up and people look inside and see
3 how much money is in the drawer. And you want to keep
4 it to a minimum so the drawer would look empty, because
5 people come in and buy something and look in your drawer
6 to see how much money is in there.

7 Q. All right. Let me make sure I understand
8 something. I thought -- so you're now -- I thought that
9 the money was supposed to be underneath the register.

10 A. 20s, 50s and 100s.

11 Q. Okay.

12 A. Ones was on the --

13 Q. All right. So you're saying all of the money
14 except for the singles, all of the singles -- how many
15 singles would you put in the back office in the locked
16 drawer?

17 A. I had three registers. Tried to keep maybe at
18 least a hundred dollars in singles.

19 Q. Where?

20 A. In the back in the desk, in the locked drawer.

21 Q. Okay, so about a hundred dollars in singles, and
22 \$50 in coins?

23 A. Something like that, yes.

24 Q. Okay. But your testimony, then, is that all
25 bills over one dollar -- that would be 5, 10s, 20s --

1 would all be kept in the register?

2 A. Yes.

3 Q. Okay. And that was your policy and practice?

4 A. Right.

5 Q. And you told all of your employees that?

6 A. Yes.

7 Q. You told them that they needed to keep all
8 money, except for rolls of coins and hundred dollars in
9 singles -- all needed to be maintained in the register,
10 right?

11 A. Right.

12 Q. And you had to make a bank deposit every day,
13 right?

14 A. Actually, we made bank deposits twice a day.

15 Q. Okay.

16 A. And that was because you wanted to not have a
17 whole lot of cash lying around, right?

18 A. Yes.

19 Q. At what point would you make a bank deposit; how
20 much cash did you have to have on hand before you had to
21 make a bank deposit?

22 A. We try to -- well, 800 to a thousand. It
23 depends on the time of day, business come in, and
24 it's -- it would be random. Depends on how busy we'd
25 get during the day. Then we'd look and see what we

1 MS. THOMPSON: Q. There was not enough room in
2 the three registers for the change; is that your
3 testimony?

4 A. Yes.

5 MS. THOMPSON: Let's take a break, okay? We've
6 been going for a while.

7 THE VIDEOGRAPHER: Okay. I'll end this tape.
8 This is the end of tape two. We're off the record at
9 2:01.

10 (Recess taken.)

11 THE VIDEOGRAPHER: Just a moment, please. This
12 is the beginning of tape three. We're on the record at
13 2:09.

14 MS. THOMPSON: Okay. Can we mark this document
15 as Exhibit 1?

16 (DEFENDANT'S EXHIBIT NO. 1
17 WAS MARKED FOR IDENTIFICATION.)

18 MS. THOMPSON: For the record, I have marked as
19 Exhibit 1 a document that's Bates numbered RS/Allen -268
20 and has the heading, "Job Title: Store Manager."

21 Q. Mr. Allen, please take as much time as you need
22 to review Exhibit 1. addie

23 (Pause.)

24 Have you had a chance to review Exhibit 1?

25 A. Yes.

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1 Q. Have you ever seen Exhibit 1 before today?

2 A. No, I haven't.

3 Q. Okay's. Regardless of whether you've seen it or
4 not, does Exhibit 1 accurately describe your duties and
5 responsibilities as store manager during your employment
6 at Radio Shack?

7 A. Yes.

8 Q. So you understood that one of your purposes as a
9 store manager during your employment was to protect the
10 company's assets, correct?

11 A. Yes.

12 Q. Were you ever written up by Hani Alzaghari for
13 anything having to do with failing to protect company
14 assets?

15 A. Never.

16 Q. Were you ever written up by Hani Alzaghari for
17 poor operational controls?

18 A. No.

19 Q. Were you ever written up by any district manager
20 for poor operational controls?

21 A. No.

22 Q. Do you have some understanding of what the term
23 "operational controls" means?

24 A. The access of the -- no, I don't. Would you
25 explain it to me?

1 Q. Fair enough. Have you ever heard that term
2 before used at Radio Shack?

3 A. No.

4 Q. Have you ever seen any document that made
5 reference to operational controls?

6 A. No, not that I remember, no, I don't.

7 Q. Have you ever been written up for failure to
8 follow daily report procedures?

9 A. Daily report procedures?

10 Q. Right.

11 A. I don't remember getting written up, no, not at
12 all.

13 Q. Were you ever written up at all -- well, who was
14 your district manager in 2003, was that Hani?

15 A. 2003?

16 Q. Right.

17 A. It could have been -- might have been Hani. Or
18 Gary Martinez.

19 Q. Were you ever told in writing by Mr. Alzaghari
20 that cash must be kept in the cash drawer and monitored
21 by you at all times?

22 A. No.

23 Q. Had Mr. Alzaghari ever told you that he was
24 holding you accountable to follow all company policies
25 at all times?

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1 A. No.

2 Q. Did you ever keep money in the manager's desk to
3 use for change so you would avoid running to the bank to
4 get change?

5 A. Yes.

6 Q. And you were told that was a violation of
7 company policy, right?

8 A. No, I wasn't.

9 MS. THOMPSON: Okay. Let's mark the next
10 document as Exhibit 2.

11 (DEFENDANT'S EXHIBIT NO. 2
12 WAS MARKED FOR IDENTIFICATION.)

13 MS. THOMPSON: For the record, I've marked
14 as Exhibit 2 a one-page document with Bates No.
15 RS/Allen -94, and has the date February 21, 2003.

16 Q. So please take as much time as you need to read
17 Exhibit 2.

18 Okay. Have you had a chance to review
19 Exhibit 2?

20 A. Yes.

21 Q. Okay. And you've seen Exhibit 2 before today,
22 right?

23 A. Uh, yes, I have.

24 Q. And that's your signature over the signature
25 line that says "Store Manager's Signature"?

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1 A. Yes, it is.

2 Q. And you signed this document on February 21,
3 2003?

4 A. Yes.

5 Q. And where it says, "District Manager's
6 Signature," do you recognize that signature?

7 A. Yes.

8 Q. And is that Hani's signature?

9 A. Yes.

10 Q. So is it fair to say that Mr. Alzaghari
11 presented you with Exhibit 2 on February 21, 2003?

12 A. Yes.

13 Q. And he asked you to read it?

14 A. Yes.

15 Q. And then he asked you to sign the document,
16 acknowledging receipt?

17 A. Yes.

18 Q. Did you review Exhibit 2 with Mr. Alzaghari on
19 February 21, 2003?

20 A. Uh, yes, I did.

21 Q. And Exhibit 2 states in part, "Mr. Allen: I
22 need you to follow company policy for all cash
23 procedures. Cash must be kept in the cash drawer and
24 monitored by you at all times. This must be done
25 immediately, and I'm holding you accountable to follow

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1 all company policies at all times."

2 At the time you read this in February of 2003,
3 did you understand that?

4 A. Yes, and the situation, too.

5 Q. I'm sorry?

6 A. Yes.

7 Q. And you understood that Mr. Alzaghari was going
8 to hold you accountable to follow all company policies
9 at all times, right?

10 A. Yes.

11 Q. And he told you the cash must be kept in the
12 cash drawer and monitored by you at all times, right?

13 A. In that store.

14 Q. I'm sorry?

15 A. In that store.

16 Q. What store is that?

17 A. That's the store -- we moved across the street,
18 and this is when this happened. But when we remodeled
19 the store and came into the new store where we didn't
20 have anyplace to keep the change at, Hani said that that
21 was okay to do that, because we didn't have any place to
22 keep the change.

23 Q. Hold on a second. So what store are you saying
24 you were in in February of 2003?

25 A. We was at 989 Market Street, I believe it was.

1 thereafter, Store 3830 was moved to a different
2 location?

3 A. Yes.

4 Q. And what location was that?

5 A. 938 Market.

6 Q. All right. So is there anywhere on Exhibit 2
7 that says to you that these rules only apply to 989
8 Market Street?

9 A. Uh, I talked to Hani about that, and I let him
10 know that the new registers did not have room for the
11 change, and I didn't have anywhere to put it. And since
12 it was back in the back room, and you had to go through
13 two -- one, two, another room to get to the desk, and it
14 was locked, he said I would be able to put it in there.

15 Q. Did he say that in writing to you anywhere?

16 A. We -- we didn't do too much writing. It was
17 mostly verbal conversation.

18 Q. Okay. But let's just hold on for a second,
19 because I want to make sure I understand a few things.

20 You understood that you were being given a written
21 reprimand on February 21, 2003, right?

22 A. Then. I had forgot about this.

23 Q. I'm not asking you whether you forgot about it.
24 I'm talking about at the time you got this, you
25 understood you were being written up for not following

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1 company policies, right?

2 A. Yes.

3 Q. And you understood from reading this that the
4 loss prevention manager had visited your store on
5 February 20th, 2003, right?

6 A. Yes.

7 Q. And that as a result of that visit, he found a
8 number of violations of company policies, right?

9 A. Yes.

10 Q. So not only the cash-handling policies but
11 various other policies were also violated, right,
12 according to Exhibit 2?

13 A. Yes.

14 Q. All right. So when did you move from 989 Market
15 to 938 Market?

16 A. Oh, I believe it was -- we was there for about
17 three years, four years, so ... I'm not for sure.

18 Q. Best estimate?

19 A. February 2003. This -- I'm not for sure. I'm
20 not for sure of the actual time.

21 Q. I understand you're not sure. Can you give me
22 your best estimate or best recollection?

23 A. And where we was located when this was written?

24 Q. Well, I thought -- you've testified that
25 Exhibit 2 was given to you while you were at 989 Market.

1 A. Right. I believe that's when it was given to
2 me.

3 Q. Okay. And so my question was, how long were you
4 at 989 Market before you moved to 938 Market?

5 A. We was there for about four years.

6 Q. Okay. So what year, approximately, did your
7 store move to 938 Market?

8 A. Uh, about 2007, somewhere along in there.

9 Q. Okay. And from that point forward, 2007 to the
10 time of your termination, you remained at 938 Market,
11 right?

12 A. Yes.

13 Q. Okay. So, now you're saying when you moved into
14 938 Market, there was no room in the cash register
15 drawers?

16 A. No.

17 Q. Is that your testimony?

18 A. Yes.

19 Q. So were your cash registers different than the
20 cash registers in any other store?

21 A. Yes.

22 Q. What makes you say that?

23 A. Because the cash registers in the new stores,
24 they was electronic, and normally with the old drawers,
25 they had a slot in the back that you can keep extra

1 change or one dollar bills, whatever you want to put
2 back there in it.

3 Q. Okay. And you're saying that when -- you're
4 calling 989 an old store; is that right?

5 A. Right.

6 Q. 989 Market. Okay. And you're saying at 989
7 Market, the cash register had drawers with a slot in the
8 back?

9 A. Yes.

10 Q. Okay. So -- but when you moved to 938 Market,
11 other stores at Radio Shack had the same cash registers,
12 didn't they?

13 A. No.

14 Q. Okay. So let's be very clear about this, then.
15 Is it your testimony that your store at 938 Market
16 Street was the only store in the entire Radio Shack
17 company that had your brand of cash register; is that
18 what you're saying?

19 A. No, that's not what I'm saying.

20 Q. Okay. So other stores had the same cash
21 registers you had at 938 Market, didn't they?

22 A. Um, there was about three stores that had the
23 same registers that I had.

24 Q. Three stores that had the same registers that
25 you had at the remodeled store at 938 Market?

1 A. Yes.

2 Q. Okay. And what are those three other stores, or
3 three stores?

4 A. One was on Mission, Serramonte and Castro.

5 Q. All right. Which Mission -- which store on
6 Mission Street, Mission and what?

7 A. Mission and 23rd.

8 Q. And who is the store manager there?

9 A. Mike.

10 Q. And who is the store manager at Serramonte?

11 MS. VERONESE: I'm going to object. Vague as to
12 time. When are we talking about?

13 MS. THOMPSON: We're talking about -- he's
14 testified --

15 Q. And correct me if I'm wrong -- that in 2007,
16 approximately, you moved into a remodeled store which
17 was located at 938 Market Street. And I was asking
18 you -- and you said you had a different kind of cash
19 register at 938 Market than you'd had 989 Market. Did I
20 understand that correctly?

21 A. Yes.

22 Q. Okay.

23 MS. VERONESE: I'm --

24 MS. THOMPSON: Q. So I'm trying to find out
25 what other stores had the same kind of cash register

1 A. Yes.

2 Q. And was anybody else there?

3 A. No.

4 Q. Okay. So you've testified that the store was in
5 what you've called a high-crime area. Didn't that make
6 it all the more important for you to make sure you took
7 precautions to protect company merchandise and assets?

8 A. I don't understand what you mean by that.

9 Q. Well, you knew you were in a high-crime area,
10 correct?

11 A. Correct.

12 Q. So didn't that make it even more important for
13 you to make sure that you took all appropriate measures
14 to protect company assets, because you knew there was a
15 risk, right?

16 A. Yes.

17 Q. Is that a fair statement?

18 A. Yes.

19 Q. Now, you said you talked to Hani about keeping
20 money in the back room, right?

21 A. Yes.

22 Q. And so was there any -- the dollar amount was
23 what? Was there any limit on the dollar amount that you
24 could keep in the back room?

25 A. Yes.

1 Q. But it was still your responsibility to make
2 sure that Rosetta and Bruce followed company policies,
3 right?

4 A. As long as I was there to make sure it was done,
5 yes.

6 Q. So if you weren't there, you felt that you had
7 no responsibility for what they were doing?

8 A. If I was not there, I felt that they should have
9 followed the policy that was presented to them. Whether
10 or not they followed it, I wouldn't know until the next
11 day or till someone came and presented it to me.

12 Q. But you had overall responsibility for the
13 store, right --

14 A. Right.

15 Q. -- as the store manager?

16 A. Yes.

17 Q. Both of them were just sales associates, right?

18 A. Right.

19 Q. And so just because you weren't there, are you
20 saying that if you weren't in the store, you had no
21 responsibility for what was happening in your absence?

22 A. I'm saying that I have no control over what
23 they're doing. I'm not saying that I'm not accountable
24 for what they do or what goes on. If somebody breaks
25 into the store, robs the store, someone breaks the

1 window in a store, um --

2 Q. I understand that you can't -- I'm not talking
3 about other people or third parties. I'm just talking
4 about the employees. I understand that you can't --
5 when you're not there, I understand you cannot
6 physically control them, but you just said -- and you
7 would agree -- that regardless of whether you were there
8 or not, you were accountable for their actions while
9 they were working, correct?

10 A. I did make a mistake and say that.

11 Q. You were accountable, though, weren't you?

12 A. For their action?

13 Q. During their -- while they were working, yes.

14 A. And I'm not there?

15 Q. Right.

16 A. I don't see how I could be responsible for their
17 action.

18 Q. I'm not asking whether you're responsible. I'm
19 saying whether you were accountable as the store manager
20 for what your employees did while they were working?

21 A. I never agree -- I don't agree -- I don't agree
22 to that.

23 Q. So you have no accountability -- if you're not
24 in the store, you have no accountability whatsoever for
25 what your employees are doing; are you saying that?

1 A. I'm saying that I don't know what my employees
2 doing when I'm not there.

3 Q. I'm not asking whether you know about them or
4 not. I'm trying to figure out how you perceived your
5 responsibility to the company.

6 A. I think that --

7 MS. VERONESE: Let her --

8 MS. THOMPSON: Q. Yeah. So my question, again,
9 is --

10 MS. VERONESE: Answer the question.

11 MS. THOMPSON: Q. -- is it your testimony, as
12 you sit here now, that while you were the store manager,
13 as long as you were not in the store, you had no
14 responsibility whatsoever for what happened in your
15 store by your employees? Is that your testimony?

16 MS. VERONESE: I'm going to object as to vague.
17 It depends on what these employees were doing.

18 MS. THOMPSON: That's fine. That's fine.

19 Q. Can you answer that question?

20 A. No, I don't feel that I'm responsible for what
21 they do when I'm not there, because they are responsible
22 for the store when I'm not there.

23 Q. So the minute you walk out the store, you have
24 no responsibility for what happens in your absence?

25 A. I can't, because I'm not there.

1 Q. Okay. That's fine. I'm just trying to
2 understand your position on this. So as soon as you
3 walk out the door, you wash your hands and just say,
4 "Whatever happens now is not my problem or my
5 responsibility"? Is that your view?

6 A. If I'm not there, I can't be responsible for
7 something that -- if I'm not there.

8 Q. Okay. So again, as soon as you walk out the
9 door and say goodbye to your employees, your feeling is
10 that you're completely absolved of all responsibility
11 for what happens in that store while you're not there?

12 A. When I have told my employees that, "You're
13 responsible now, of the store; make sure you take care
14 of it."

15 Q. I understand you're telling them they're
16 responsible --

17 A. Right.

18 Q. -- but I'm trying to find out what your view of

19 your own responsibility was. Do you feel you're
20 completely absolved of any responsibility for your store
21 once you walk out the door and leave it in the hands of
22 Rosetta or Bruce? And that's a "yes" or a "no."

23 A. Yes.

24 Q. Did you know who Tom Nabozny was?

25 A. Yes.

1 Q. He was the loss prevention manager?

2 A. Yes.

3 Q. Okay. When we talked earlier about visits by
4 the loss prevention manager, you talked about December
5 of 2009 and January of 2010, are you talking about
6 Tom Nabozny?

7 A. No.

8 Q. What other loss prevention managers did you know
9 besides Tom Nabozny?

10 A. Tom Nabozny was my loss prevention manager
11 for -- until he got fired.

12 Q. And when was he fired?

13 A. 2007, somewhere along in there.

14 Q. Who told him he was fired?

15 A. Excuse me.

16 Q. I'm sorry. Who told you he was fired?

17 A. Um, we had had a conversation in our back room
18 once, where he was telling me that Radio Shack is
19 getting ready to get rid of all their senior managers in
20 Radio Shack, and they have started with, uh -- with him.
21 He was -- his job was in jeopardy because of age, and he
22 said that, um, he were getting ready to -- they were
23 getting ready to eliminate him because of his age. And
24 he had a younger man that was coming in to take his
25 place.

1 Q. All right. Let me make sure I understand a few
2 things. So this is a conversation you and Tom Nabozny
3 were having in 2007?

4 A. Yes. Around then.

5 Q. Who else was present?

6 A. We was in the back room. He had did one of
7 these reviews here.

8 Q. He had a store visit?

9 A. Yes.

10 Q. Did you like Tom Nabozny?

11 A. I got along with almost everybody.

12 Q. Okay. Did you feel he treated you fairly?

13 A. Yes.

14 Q. So even when he gave you a negative store visit,
15 did you think that he was treating you fairly?

16 A. Um, with this visit here, um, once we did the
17 visit, and I explained to him how these things happen,
18 and the reason why we was having these problems, he went
19 back and talked to Hani about them, and then from there,
20 we worked those things out and got it taken care of.

21 Q. Okay. So after you received the written
22 reprimand on February 21, 2003, you're saying that you
23 and Tom Nabozny worked out your differences?

24 A. We didn't have -- there was no differences to
25 work out.

1 Q. Okay. So -- all right. So you had no problems
2 at all working with Tom Nabozny, then?

3 A. No.

4 Q. Okay. Fair enough. So when he wrote you --
5 again, looking at Exhibit 2, where it says, "Tom Nabozny
6 (Loss Prevention Manager) visited store on February 20,
7 2003 and the store visit report revealed the following,"
8 and he talks, "Refunds - 0 out of 29 refunds either had
9 SM or issuer's signature as per company policy."

10 Was that true?

11 A. Yes.

12 Q. That was a violation of company policy, right?

13 A. Yes.

14 Q. You had to have the store manager sign the
15 refund?

16 A. Yes.

17 Q. And out of 29 refunds, none had been signed by
18 you, right?

19 A. Yes. Is that what this says?

20 Q. That's what it says. It also says, "Voids - 0
21 out of 2 voids were signed by the [store manager] as per
22 company policy." Is that a true statement?

23 A. Yes.

24 Q. And you understood voids needed to be signed by
25 the store manager by company policy?

1 A. At that time, when Tom did this here, that was a
2 change in the policy, and Tom was coming along saying
3 that these were things that need to be taken care of.
4 And I was one of the stores that he came to.

5 And then from that point there, everybody
6 understood -- in the district understood what they was
7 looking for, during that time.

8 Q. Okay. But that's on the -- on the voids, you're
9 saying that policy changed. But it hadn't changed on
10 refunds --

11 A. But the whole --

12 Q. -- had it?

13 A. But the whole thing was -- the whole policy --
14 all the policy had been changed when he made this visit.

15 Q. Well, are you saying that before -- are you
16 saying that in 2000, for example, a store manager did
17 not have to sign refunds?

18 A. No, I'm not saying that, but it was not an
19 issue.

20 Q. Right. You knew that store managers -- it was
21 always company policy that a store manager would have to
22 sign refunds, right?

23 A. Yes.

24 Q. That was the policy the day you became the store
25 manager, and that was the policy the day you left as

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1 store manager, right?

2 A. Right.

3 Q. Okay. The same thing were voids, right? The
4 voids were supposed to be signed by the store manager,
5 right?

6 A. Right.

7 Q. "Payroll - Time cards need to be filled out by
8 employees every day worked." That's company policy,
9 right?

10 A. Yes.

11 Q. And you were responsible for making sure that
12 happened, right?

13 A. Right.

14 Q. "The [store manager] must review and sign each
15 employee's time card for accuracy prior to closing
16 payroll." That was company policy, right?

17 A. Right.

18 Q. And that was your responsibility as a store
19 manager?

20 A. Right.

21 Q. And Tom Nabozny was pointing out to you that
22 that wasn't being done correctly, right?

23 A. Right.

24 Q. And you didn't disagree with him, did you?

25 A. No.

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1 Q. Now, what does "RSAP" stand for? Take a look at
2 Exhibit 2.

3 A. Radio Shack service plans.

4 Q. Well, it's AP. Do you know what that stands
5 for?

6 A. Radio Shack applications, credit card
7 applications.

8 Q. I'm just asking you what -- when there's a
9 reference to "0 out of 7 RSAP applications did not have
10 the hard copy of RSAP contracts signed and attached to
11 the document. 2 out of 4" -- oh, sorry. "Document,"
12 period. Never mind.

13 So in that context, what does "RSAP application"
14 mean?

15 A. Radio Shack credit card.

16 Q. That's your understanding?

17 A. Yes.

18 Q. Okay. So was it true that zero out of seven
19 RSAP applications did not have the hard copy of the RSAP
20 contract signed and attached to the document?

21 A. Yes.

22 Q. Was that your responsibility, to make sure that
23 was done correctly?

24 A. Yes.

25 Q. And you didn't disagree with Mr. Nabozny when he

1 pointed out that that had not been done, did you?

2 A. No.

3 Q. Okay. Where it says, "2 out of 4 Verizon
4 applications did not have the wireless phone purchase
5 summary filled out and attached to the document," was
6 that true?

7 A. Yes.

8 Q. And that, again, was part of your responsibility
9 to make sure that happened?

10 A. Yes.

11 Q. And was it true that there was a box in the
12 manager's desk which contained \$300?

13 A. There was some money in the box, yes.

14 Q. Was it \$300?

15 A. No, it -- no.

16 Q. You don't know?

17 A. No, it wasn't no \$300.

18 Q. So you're saying that's a -- Mr. Nabozny is
19 making that up?

20 A. I'm saying there wasn't no \$300 in the drawer.

21 Q. How much was in there --

22 A. I don't know.

23 Q. -- according to you?

24 A. I don't know, because there's \$300 is the petty
25 cash, and the petty cash was in the drawers. There was

1 \$300 --

2 Q. Wait, wait, wait. I'm sorry. You really do
3 have to speak more slowly. I'm sorry. I know it's
4 hard. Can you start again? 'Cause what I'm asking you
5 is how do you -- how much money was in the manager's
6 desk if it --

7 MS. VERONESE: In 2003?

8 MS. THOMPSON: Q. -- wasn't \$300?

9 MS. VERONESE: Back in 2003?

10 MS. THOMPSON: Correct, at the time of this
11 reprimand.

12 THE WITNESS: We kept loose coins, one dollar
13 bills in the drawer in the box -- in the box at that
14 time.

15 MS. THOMPSON: Q. All I'm asking you is, you
16 said that -- you just stated under oath that there was
17 not -- you disagreed with the statement that there was
18 \$300 in the manager's desk, right?

19 A. Right.

20 Q. Okay. So I'm asking you, as you sit here now,
21 do you know exactly how much money you had in the
22 manager's box as of February 2003?

23 A. No, I don't.

24 Q. So it could have been \$300, right?

25 A. It could have been.

1 Q. Okay. All right. So let's go back to your
2 conversation with Tom Nabozny, where you said that --
3 correct me if I'm wrong -- that you were having some
4 kind of store visit with him, and you and he were in the
5 back room, and he -- he told you that he was getting
6 fired?

7 A. They told me that they are getting ready to
8 change the -- they was getting ready to change the

9 employees around, employees; that he said that he was --
10 they was getting ready to get rid of him.

11 Q. Okay. I just want to make sure I understand.
12 This is something that Tom Nabozny was saying now?

13 A. Yes.

14 Q. Was somebody else there?

15 A. No, we was in the back room.

16 Q. So Tom Nabozny was telling you -- was he telling
17 you that he had been fired?

18 A. No, he had not been fired yet.

19 Q. Okay. So he was telling you that he thought he
20 was going to be fired?

21 A. Yes.

22 Q. Okay. And did he tell you why he thought he was
23 going to be fired?

24 A. Yes.

25 Q. And what did he tell you?

1 Q. I'm not talking about a store visit report.
2 I'm talking about a write-up for failure to follow
3 company policy. Did you ever get such a write-up from
4 Tom Nabozny at any time?

5 MS. VERONESE: And just to clarify "write-up,"
6 meaning a reprimand?

7 MS. THOMPSON: Right.

8 THE WITNESS: From Tom Nabozny?

9 MS. THOMPSON: Q. Yes.

10 A. Not that I recall, no, I don't. I don't
11 remember one.

12 Q. Did Tom Nabozny ever say or do anything to you
13 that suggested that he was biased against you because of
14 your race?

15 A. Tom Nabozny?

16 Q. Right.

17 A. No.

18 Q. And Hani Alzaghari never did anything to you
19 that would suggest that he was biased against you
20 because of your race, did he?

21 A. No.

22 MS. THOMPSON: Let's mark the next document as
23 Exhibit 3, please.

24 (DEFENDANT'S EXHIBIT NO. 3
25 WAS MARKED FOR IDENTIFICATION.)

PATRICIA CALLAHAN REPORTING

1 MS. THOMPSON: For the record, I've marked as
2 Exhibit 3 a one-page document, Bates numbered RS/Allen
3 -91, with the date April 16th, 2007.

4 Q. Please take as much time as you need to read
5 Exhibit 3.

6 (Pause.)

7 Have you had an opportunity to review Exhibit 3?

8 A. Yes.

9 Q. And you've seen Exhibit 3 before today, right?

10 A. Uh, yes.

11 Q. And is that your signature on the bottom third
12 of Exhibit 3 next to the number 1.?

13 A. Yes.

14 Q. And did you read Exhibit 3 on or about
15 April 16th, 2007?

16 A. Yes.

17 Q. And did you sign Exhibit 3 on or about
18 April 16th, 2007?

19 A. Yes.

20 Q. And who are the other signatures, if you know?
21 Do you know whose signature is next to item 2.?

22 A. Uh, Bruce Gillon.

23 Q. I'm sorry. What's the last name?

24 A. Bruce Gillon.

25 Q. How do you spell that?

1 A. G-i-l-l -- I don't know.

2 Q. You don't know?

3 A. I don't know.

4 Q. I'm sorry?

5 A. I don't know how to spell his last name.

6 Q. Do you know whose signatures or initials are
7 next to the number 3.?

8 A. Hmm, no, I don't.

9 Q. How about next to number 4.?

10 A. Erica Beard.

11 Q. Okay. Number 5., is that Rosetta Holmes?

12 A. Yes.

13 Q. And do you know who's next to number 6.?

14 A. No, I don't.

15 Q. So you understood that you were being written up
16 on April 16th, 2007, for failure to follow company
17 compliance, operational procedures?

18 A. Yes. The reason why we have all the other
19 signatures on there was to make them accountable,
20 because they were the ones that was doing these sales
21 and not completing the forms.

22 So we had them to sign also, to let them know
23 that was their responsibility, once they sell a phone,
24 to make sure it was complete and have all the documents
25 with it.

PATRICIA CALLAHAN REPORTING

1 Q. And it was also your responsibility as store
2 manager, right?

3 A. Right.

4 Q. And whose idea was it to make the employees
5 sign; was that your idea?

6 A. Yes.

7 Q. Tom Nabozny didn't tell you to have your
8 employees sign, did he?

9 A. No.

10 Q. In fact, the memorandum, Exhibit 3, is
11 directed -- well, let me withdraw that.

12 Did anyone tell you that you should have your
13 employees sign Exhibit 3?

14 A. Um, I talked with Hani about it, and he said it
15 would be a good idea to have them accountable.

16 Q. Okay. So was it true that -- would you agree
17 that you were not in compliance with operational
18 procedures during the store visit that was conducted --
19 or at the time of the store visit that was conducted on
20 April 16th, 2007?

21 A. I disagreed with him because the forms that he
22 found were done, and over the weekend, there were some
23 forms that was not signed. And since they were not
24 signed over the weekend while I was not there, or when
25 I'm not there, um, it -- I had to come back and get them

1 I was not there during the time the refund was there.

2 Q. So if there was a refund or a void on a day when
3 you were not there, who was responsible for approving
4 that?

5 A. Um, Rosetta and Bruce.

6 Q. So you're --

7 A. And they didn't sign it because it was --

8 Q. You're saying that your sales associates were
9 responsible for signing refunds and voids?

10 A. They were responsible for signing their names on
11 the refunds and voids during that day.

12 Q. You were also, as the store manager, supposed to
13 be reviewing the refunds and voids, weren't you?

14 A. Right.

15 Q. And signing off on them?

16 A. Reviewing.

17 Q. You had no responsibility for signing off on
18 refunds and voids?

19 A. I didn't sign off on them if I wasn't there. If
20 I was there during that day, then I signed them, but if
21 I was not there, then I didn't sign it.

22 Q. Okay. So you're saying if you were not there,
23 you had no responsibilities for refunds or voids that
24 were handled on that particular day?

25 A. Uh, my responsibility were to come in and I

1 would randomly check refunds to see if the merchandise
2 were returned or put back on the shelf. I would do that
3 on some of the receipts. I wouldn't do it with all the
4 receipts. But certain amounts of refunds, dollar
5 amount, I would go and check the refund and check to see
6 whether it was done, but I did not sign it.

7 Q. Right. But you had overall responsibility for
8 making sure that all refunds and voids were handled
9 properly, right?

10 A. Yes.

11 Q. Okay. And it states, "Several of the refunds
12 either did not have the issuers or the customer
13 signatures as per policy," end quote. Is that a true
14 statement?

15 A. Yes.

16 Q. And your position is that you have no
17 responsibility for that?

18 A. No, my position is that in the area that we was
19 in, we had quite a few refunds. We was known for an
20 awful a lot of refunds, and Tom Nabozny and Hani was
21 aware of that. And we get people coming in that says,
22 "I'm not going to sign this. I want my money, and
23 that's it." And they would get sometime, uh, hostile.
24 So they wouldn't sign it. And they would walk out and
25 get their money, and we would let them go.

1 Q. Who is the issuer; what does that mean?

2 A. Issuer, who issues the money to the person.

3 Q. Who is that?

4 A. Whatever salesman it is.

5 Q. So the statement is, "Several of the refunds
6 either did not have the issuers or the customer
7 signatures as per policy."

8 A. Exactly.

9 Q. So it was your responsibility to at least make
10 sure the issuers signed off, right?

11 A. Right.

12 Q. That was company policy, right?

13 A. Right.

14 Q. So the statement is made, "19 out of 24 refunds
15 reviewed did not have the customers name, address or
16 phone number on the refund." That's your responsibility
17 to make sure that happened, right?

18 A. No.

19 Q. You had no responsibility for that as the store
20 manager?

21 A. To make sure that people name, and telephone
22 number is put on there?

23 Q. Right, on the --

24 A. No.

25 Q. -- refunds.

1 A. No. Because --

2 Q. You had no responsibility for that.

3 A. No, I did not.

4 Q. And that was company policy, though, right, to
5 require that refunds have the customer's name, address,
6 phone number on the refund?

7 A. Yes.

8 Q. But you're saying that wasn't your
9 responsibility as a store manager to make sure that
10 happened?

11 A. I'm saying that if I asked a customer to give me
12 they name, address and telephone number, and they say to
13 me, no, they're not going to give it to me, then I can't
14 make them give it to me.

15 Q. And you also don't have to give a refund then,
16 do you?

17 A. Um

18 Q. Isn't that the condition of the refund?

19 A. It is.

20 Q. Right.

21 A. But I have done that, and I have gotten broken
22 windows; I have gotten broken doors.

23 Q. So let me just be very clear here. The company
24 policy says you don't give a refund unless you get the
25 customer's name, address or phone number, correct?

PATRICIA CALLAHAN REPORTING

1 A. Right.

2 Q. And you, as store manager, were required to
3 follow that policy, correct?

4 A. Yes.

5 Q. Okay.

6 A. And I --

7 Q. And you were being reprimanded on April 16th,
8 2007, because 19 out of 24 refunds reviewed did not have
9 the required information, right?

10 A. Right. And I also talked to Tom and Hani about
11 the situation that I have dealing with the customers
12 down there. And I explained to them what was going on
13 and the attitude of the people that I was dealing with
14 in that area.

15 Q. It also states -- Exhibit 3 also says, "I also
16 reviewed all Sprint contracts from the month of April
17 and found that none of them had the customer profile
18 sheet attached to the contract." Was that true?

19 A. This is what this says.

20 Q. Do you have any reason to believe it's not true?

21 A. No, I don't.

22 Q. He also says, quote, "I also found that one of
23 the contracts did not have the sales ticket attached."

24 Q. Was that a true statement?

25 A. I don't remember the facts of this.

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1 Q. Do you have any reason to believe it's not true
2 as you sit here now?

3 A. No, I don't.

4 Q. It then states, quote, "This then lead me to
5 review the manager's Redbook and found that Allen has
6 not filed the wireless transaction checklist for the
7 last 18 days," end quote.

8 Is that a true statement? And actually, is it
9 true that as of April 16th, 2007, you had not filed the
10 wireless transaction checklist for the previous eighteen
11 days?

12 A. I don't -- I have no idea about that.

13 Q. As you sit here now, do you have any reason to
14 believe that was not a true statement at the time that
15 Mr. Nabozny wrote it on Exhibit 3?

16 A. That could be a mistake.

17 Q. You don't know one way or the other, though, do
18 you?

19 A. No, I don't.

20 Q. And you didn't file any kind of written rebuttal
21 to Exhibit 3, did you?

22 A. No, I didn't. No more than talk to Hani about
23 it.

24 Q. Instead, you actually signed off on Exhibit 3,
25 right?

1 A. Right. Because there were some things on here
2 that we needed to bring to attention to everyone in the
3 store.

4 Q. So what's the manager's Redbook?

5 A. The manager's Redbook is a monthly log in of
6 sales, I believe it is, sales, cell phones, daily sales.

7 Q. Wait. Is Redbook -- the manager's Redbook
8 something that you were required to maintain?

9 A. Yes.

10 Q. And that was part of your job as a store
11 manager?

12 A. Yes.

13 Q. And was this something that you did manually?

14 A. Yes.

15 Q. So it wasn't on the computer?

16 A. No.

17 Q. Was it an actual physical book?

18 A. Yes.

19 Q. Was it red?

20 A. Yes.

21 Q. Okay. And what items were you supposed to
22 record in the Redbook?

23 A. Daily sales.

24 Q. Daily sales?

25 A. Daily sales, I believe that was daily sales,

1 cell phones.

2 Q. I want to make sure I understand you. Daily
3 sales --

4 A. Yes.

5 Q. -- was one thing you would record?

6 A. Yes.

7 Q. So when you say you would record daily sales,
8 are you talking about dollar figures?

9 A. Yes.

10 Q. Okay. And then you said cell phones. What were
11 you supposed to do with regard to recording information
12 about cell phones?

13 A. Keeping a quota of how many cell phones was
14 sold.

15 Q. Okay. And this was something you were supposed
16 to do every day, right?

17 A. Yes.

18 Q. And what was your understanding of the purpose
19 of keeping the Redbook on a daily basis?

20 A. To find out where you were as far as sales are
21 concerned and how close are you to the goal.

22 Q. What was your point in recording how many cell
23 phones you were selling? As you understood it, why was
24 that required?

25 A. To see how many we have sold to keep up with our

1 goal that was set forth.

2 Q. So it's your testimony that the only reason to
3 fill out the Redbook on a daily basis was to keep track
4 of how you were -- your sales as measured against your
5 goals?

6 A. Yes.

7 Q. Was there any other reason for keeping the
8 Redbook?

9 A. I can't think of anything right now.

10 Q. All right. Then Exhibit 3 states, "Allen needs
11 to understand that just by ignoring these operational
12 procedures, he is showing that he is not being
13 responsible for maintaining the security of company
14 assets. The kind of negligent attitude that is
15 displayed in this area reflects poorly on Allen's
16 managerial skills."

17 I take it you read that on April 16th, 2007,
18 right?

19 A. Hmm.

20 Q. Did you read that paragraph on April 16th, 2007,
21 when you were given Exhibit 3?

22 A. I probably did.

23 Q. And you understood that Tom Nabozny was
24 informing you that your negligent attitude reflected
25 poorly on your managerial skills, right?

1 A. I didn't at the time, but now I do.

2 Q. Well, didn't you understand it when you read
3 Exhibit 3 back on April 16th, 2007?

4 A. Uh, no, because my main focus was on the refund
5 slips, the cell phone -- the cell phone receipts.
6 That's the reason we got everybody to sign, because that
7 was what my main focus was on.

8 Q. So are you saying now that you didn't bother to
9 read that paragraph when you were given Exhibit 3?

10 A. I did not bother to read that paragraph.

11 Q. Okay. But as you look at it now, you understand
12 that what he's saying is a pretty serious commentary on
13 his opinion of your managerial skills, right?

14 A. Right.

15 Q. Let's go back to Donna Ocampo. And what I'd
16 like to talk about was the next -- you'd spoken to
17 Donna Ocampo as she was leaving the store at the time of
18 the group remodel that we've already gone over, and she
19 told you she didn't think it was a good store visit.
20 Did you ever have any follow-up discussion with
21 Donna Ocampo in terms of why she thought it was not a
22 good store visit?

23 A. We talked about -- yeah, I did talk to her about
24 that.

25 Q. Okay. And did she tell you why -- did you ask

1 her why she thought it was not a good store visit?

2 A. Yes.

3 Q. Okay. Tell me, if you can -- first of all, when
4 did this conversation take place?

5 A. Uh, a couple weeks after the initial remodel.

6 Q. Okay. And was this -- I apologize if I asked
7 you this before. Was this in person or on the phone?

8 A. In person.

9 Q. And this was at your store?

10 A. Yes.

11 Q. And where was this conversation taking place?

12 A. In the front part of the store.

13 Q. Was anyone else present?

14 A. Uh, the employees was there, but I'm not sure if
15 they heard the conversation.

16 Q. Do you remember which employees were there?

17 A. No, I don't.

18 Q. Okay. Can you tell me -- was Donna -- was
19 anybody else with Donna in terms of making the store
20 visit, or was she by herself?

21 A. She was by herself.

22 Q. And did you know that she was coming that day?

23 A. No, I didn't. She called and said -- wait a
24 minute. No, I didn't know she was coming.

25 Q. Okay. So she surprised you?

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1 A. She surprised us.

2 Q. Okay. And when she walked into the store, you
3 were on the sales floor?

4 A. Yes.

5 Q. And what did you and she say to one another once
6 she walked in?

7 A. She said that -- that the store was not in good
8 shape, it was not according to planogram, and I -- I
9 mentioned to her, it is still not according to
10 planogram.

11 Q. Did you and she say anything else to one another
12 on that occasion?

13 A. Um, she began to watch my employees.

14 Q. When you say she began to watch your employees,
15 what do you mean?

16 A. Meaning that she would be doing certain tasks,
17 and while she's doing certain tasks, she would look
18 around to see what they're doing or how they're reacting
19 in the store.

20 Q. And did you think there was something wrong with
21 her doing that?

22 A. No.

23 Q. Okay. So she began to look at the employees.
24 Did she say anything more during that store visit?

25 A. Uh, one of the main things that she kept

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1 reminding me of, that I had the wrong people in the
2 store.

3 Q. Were those her exact words?

4 A. Yes.

5 Q. Okay. When she said you have the wrong people
6 in the store, did you ask her what she meant by that?

7 A. No, I didn't.

8 Q. Did you ask her what she wanted you to do about
9 that?

10 A. Yes.

11 Q. Tell me what you said to her.

12 A. I actually said -- she said that I have the
13 wrong people. And I said, "Donna, we have the three top
14 salesmen in thirteen states working in this store. We
15 have the best inventory in the district in this store,
16 in the worst area of the district." I said, "And these
17 are the top salesmen in your district." And she said,
18 "Even so, it's the wrong image that we want." And I
19 said, "Okay."

20 And then she would change the conversation, and
21 we would start talking about displays, talk about
22 merchandising.

23 Q. Okay. So who were the three top salespeople?

24 A. Bruce, Rosetta and Victoria.

25 Q. So you would -- she would say, "We've got the

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225

1 wrong people in the store." You would say, "Well, wait
2 a second. We've got the three top salespeople in the
3 district?" They were the top three in the district?

4 A. Yes.

5 Q. "And we have the best inventory in the
6 district"?

7 A. Yes.

8 Q. And then she would say what?

9 A. She would change the conversation.

10 Q. All right. I think you testified that the three
11 top salespeople -- Bruce is Caucasian?

12 A. Yes.

13 Q. Rosetta is African-American?

14 A. Yes.

15 Q. And Victoria is Latina?

16 A. Yes.

17 Q. So when she said the wrong people in the store,
18 did she identify anybody by name?

19 A. She talked about Rosetta and Erica mostly.

20 Q. Oh. So what did she say about Rosetta?

21 A. Um, she questioned their ability on the floor.

22 Q. I'm just talking about Rosetta right now. What
23 did Donna Ocampo say about Rosetta?

24 A. She asked me could I find someone that's better
25 than Rosetta, a better employee. She didn't like her

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1 image.

2 Q. All right. So I want to be really clear here.

3 A. Okay.

4 Q. So Donna Ocampo said to you, "We need to find a
5 better employee than Rosetta because I don't like her
6 image"?

7 A. Yes.

8 Q. And did you say, "What do you mean by that?"

9 A. No, I did not.

10 Q. Did Donna Ocampo ever tell you that you needed
11 to terminate Rosetta?

12 A. Yes, she did.

13 Q. When did she tell you that?

14 A. Actually, she said, "If you don't get rid of
15 those employees, I'll get rid of you."

16 Q. All right. When did she say, "If you don't get
17 rid of those employees, I'll get rid of you"?

18 A. Uh, that was not during that time. That was
19 about, oh, maybe a week later, she came down to the
20 store to pick up some lock and pegs. She went
21 downstairs to bring up the lock and pegs, brought them
22 back upstairs. She took me back in my back room back
23 there, in the office. She sit down in the chair, and
24 she said, "You need to upgrade your people, and if you
25 don't get rid of these people, then I'll get rid of

1 you."

2 Q. All right. So when did this happen, what month?

3 A. That was March, somewhere along in March,
4 sometime in March. I'm not for sure. But it was right
5 after the -- right after the official visit where they
6 remodeled the store, because all the lock and pegs was
7 downstairs then.

8 Q. All right. I don't want to get too far ahead of
9 ourselves here. Let's stay focused on the first store
10 visit after the remodel. So I want to go back to -- did
11 Donna, during that conversation where you said she said
12 that you have the wrong people in the store and the
13 wrong image -- did she mention -- again, I'm talking
14 about that conversation, not the later conversation.
15 Did Donna mention anyone by name in that conversation?

16 A. She mentioned -- she mentioned Rosetta's name.

17 Q. Okay. So this was in the first conversation
18 with Donna Ocampo following the remodel; is that right?

19 A. Yes.

20 Q. Okay. What exactly did she say about Rosetta?

21 A. She was questioning her image.

22 Q. What did she say? What were the exact words
23 that she used?

24 A. Those were her exact words, she was questioning
25 her image.

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1 Q. What did she say?

2 A. "Can you find some better people?"

3 Q. "All right. You've already testified she said,
4 "Can you find better people? You have the wrong people
5 in the store. You have the wrong image." I want to
6 know what else, specifically, if anything, she said, her
7 words.

8 A. And from that, we moved on to another
9 conversation. She started talking about merchandising
10 of the store. It wasn't that we had a long conversation
11 about this; it was just --

12 Q. How long was the conversation about the
13 employees on that occasion? And I'm talking about the
14 first store visit after the remodel.

15 A. It wasn't a long conversation. It was not more
16 than a conversation saying, "We need to upgrade the
17 employees. We need to make some changes with the
18 employees."

19 Q. Okay. Again, I really want to be careful. I
20 really want to know what the exact words were, if you
21 know.

22 MS. VERONESE: If you remember the exact words.

23 THE WITNESS: I don't know the exact words.

24 MS. THOMPSON: Q. Okay. Do you remember any of
25 Donna's exact words about this subject?

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1 A. Donna's exact words were that, "We need to
2 upgrade your employees. You need some better employees
3 in this store."

4 Q. Okay. And it's your testimony that those were
5 Donna's exact words?

6 A. Those was Donna exact words.

7 Q. Other than those exact words, do you remember
8 any other exact words that Donna said on that occasion
9 of that store visit following the remodel?

10 A. No, we talked about the merchandise of the
11 store.

12 Q. Okay. I don't want to go on to that yet. I
13 just want to make sure you've told me all of the exact
14 words that you can recall that Donna said to you about
15 the employees on that first store visit following the
16 remodel. And so far you've said her exact words, "We
17 need to upgrade the employees" -- well, let me withdraw
18 that. I'm not going to characterize what you said.

19 Have you told me all of the exact words that you
20 can recall Donna saying on the occasion of that first
21 store visit following the remodel?

22 A. Yes.

23 Q. Okay. So let's talk about the next time. Did
24 you have another store visit with Donna following that
25 store visit?

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1 A. Yes.

2 Q. Okay. And how soon after that store visit
3 following the remodel did the next store visit take
4 place?

5 A. It was a couple weeks.

6 Q. Okay. Was Donna by herself or with anyone else?

7 A. She was by herself.

8 Q. Did she give you advance notice that she was
9 coming?

10 A. Uh, yes, she called me up and said she was on
11 her way.

12 Q. Okay. And is this the time when she brought the
13 lock and pegs with her?

14 A. No, she came to pick up the lock and pegs.

15 Q. I apologize; you did say that. So this was the
16 occasion when Donna came to pick up the lock and pegs
17 from your stores?

18 A. Yes.

19 Q. So on that occasion, what exact words did Donna
20 use, if you remember? Well, first of all, let me start
21 there. Do you remember any exact words Donna used about
22 the employees during that second store visit?

23 A. The second store visit was that she came into
24 the store, walked in the back room, sat down in my
25 chair. I was standing in the door. And she says, "If

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1 you don't get rid of those employees" -- "your
2 employees, then I will get rid of you." And then she
3 said -- she said, "The only thing I care about is making
4 sure that my son is taken care of."

5 Q. Okay. Let me just make sure I'm -- so -- are
6 you testifying that these were Donna's exact words?

7 A. These were Donna's exact words.

8 Q. So the first comment was, "If you don't get rid
9 of those employees, I will get rid of you"?

10 A. Yes.

11 Q. And the second comment was what about her son?

12 A. She said, "The only thing I care about is making
13 sure that my son is taken care of."

14 Q. Do you remember any other exact words that
15 Donna Ocampo used on this second visit?

16 A. That was -- that was it.

17 MS. VERONESE: Those are the words that you
18 remember exactly?

19 THE WITNESS: The words that I remember exactly.

20 MS. THOMPSON: Q. Okay. Do you remember
21 anything else that Donna said in that second
22 conversation that had anything to do with the employees?

23 A. Not that I remember.

24 Q. Now, when she said, quote, "If you don't get rid
25 of those employees, I will get rid of you," end quote,

1 what, if anything, did you say in response?

2 A. I didn't say anything in response.

3 Q. Did you ask her which employees she was talking
4 about?

5 A. No.

6 Q. Had Donna ever spoken to you about her son
7 before this comment about "The only thing I care about
8 is taking care of my son or?"

9 A. No.

10 Q. Had you ever seen Donna's son?

11 A. I never -- never even knew she had a son.

12 Q. Did you ask her what she meant by that comment?

13 A. No, I thought it was pretty obvious. "Whatever
14 I need to do to keep my job, that's what I'm going to
15 do, is to make sure my son is taken care of." That's
16 the way I took it.

17 Q. Okay. So let's just make sure I understand
18 this, then. So the comment is, "The only thing I care
19 about is my son," or words to that effect?

20 A. Yes.

21 Q. She didn't say anything else, right --

22 A. No.

23 Q. -- about that, her son?

24 A. No.

25 Q. And you -- so you took it -- you drew the

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1 inference from that comment that what she was referring
2 to is that she would do anything to keep her job?

3 A. That's what I took it as.

4 Q. Why did you take it that way?

5 A. Why did I take it that way? Because she's
6 saying to me -- it was saying, "This is what I was told
7 to do, and that's what" -- I'm assuming. I should keep
8 my mouth shut, then.

9 Q. Right. Well, I mean, if you're making an
10 assumption or guessing --

11 MS. VERONESE: Don't guess.

12 MS. THOMPSON: Q. Is that what you're doing?

13 A. Yes.

14 Q. Okay. 'Cause I don't want you to assume or
15 guess, but if you have some basis for having an opinion,
16 I do want you to tell me what that is, okay?

17 So my question is, do you have any basis for
18 your opinion that what she meant was that she would do
19 anything to save her job? I'm not asking you to guess
20 or speculate.

21 A. Are you -- I don't understand the question.

22 Q. Fair enough.

23 Why don't we take a break, okay, and come back
24 in ten minutes.

25 THE VIDEOGRAPHER: Okay. I'll end this tape.

1 This is the end of tape three. We're off the record at
2 3:34.

3 (Recess taken.)

4 THE VIDEOGRAPHER: Okay. This is the beginning
5 of tape four. We're on the record at 3:44.

6 MS. THOMPSON: Q. Okay. Let's go back again to
7 the comment that Donna Ocampo allegedly made about her
8 son. Can you tell me what the words were again that she
9 used?

10 A. That the only thing that she was worried about
11 is "taking care of my son."

12 Q. Okay. And you never asked her what she meant by
13 that, right?

14 A. No.

15 Q. And she never told you what she meant by that,
16 did she?

17 A. No.

18 Q. Other than what you've -- did you have any
19 further conversations with Donna Ocampo about the
20 employees in your store, other than what you've already
21 told me?

22 MS. VERONESE: On that day or --

23 MS. THOMPSON: Q. All right. Well, let's --

24 MS. VERONESE: Even after that day?

25 MS. THOMPSON: Let's start with that day.

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1 THE WITNESS: Uh --

2 MS. THOMPSON: Q. Other than what you've
3 already said.

4 A. No.

5 Q. Okay. Following that store visit that we've
6 just been talking about, did you have any further
7 conversations with Donna Ocampo about the employees in
8 your store?

9 A. We talked about sales performance, sales and
10 stuff like that.

11 Q. Okay. Other than talking about the sales
12 performance of the employees in your store, did
13 Donna Ocampo make any other comments about the employees
14 in your store? Again, other than what you've testified
15 to.

16 A. No.

17 Q. As you sit here now, do you believe that
18 Donna Ocampo is biased against you because of your race?

19 A. I think Donna was doing exactly what Radio Shack
20 had told her to do, from the previous managers or
21 manager or people that was working for Radio Shack had
22 been fired because of age and discrimination because of
23 race. They was eliminated. And I think that she was
24 doing exactly what she was told to do.

25 Q. I'll get to that in a minute. I'm just trying

1 to find out if you have any -- first of all, if you
2 believe Donna Ocampo has a bias against you because
3 you're African-American?

4 MS. VERONESE: I think he answered that.

5 MS. THOMPSON: I don't think he did. I think
6 that's a "yes" or "no."

7 THE WITNESS: Do I think she's biased because
8 I'm a --

9 MS. THOMPSON: Q. Yeah. Do you think
10 Donna Ocampo is biased against you because you're
11 African-American?

12 A. No.

13 Q. All right. Now, you mentioned that it's your
14 opinion or belief that Donna is doing what she's been
15 told to do?

16 A. Yes.

17 Q. Okay. So who is telling Donna what -- who, in
18 your mind, is telling Donna what to do?

19 A. Her boss, her --

20 Q. And who is her boss that you think is telling
21 her what to do?

22 A. Radio Shack itself was making changes, a new
23 image, and the new image was that they wanted a lot of
24 the older managers, senior managers that had been
25 around, most of them were being eliminated or forced

1 employees based upon their age. Do you understand that
2 question?

3 A. Have I heard any supervisors at Radio Shack
4 saying that they're going to eliminate

5 Q. Okay.

6 MS. VERONESE: No.

7 MS. THOMPSON: Q. No, my question is a little
8 bit broader than that, okay? And I apologize if it's
9 not clear, and I know it's late in the day.

10 What I'm trying to find out is whether you have
11 personally heard with your two own ears any -- let's say
12 supervisor or manager or further up the chain make any
13 comment about any employee that you viewed as derogatory
14 based upon that employee's age. Do you understand that?

15 A. I have heard -- the only someone I heard say
16 anything was Tom Nabozny. And he said that Radio Shack
17 is getting ready to eliminate all the --

18 MS. VERONESE: Okay. I think you're still not
19 understanding the question.

20 MS. THOMPSON: Yeah, I do think there's still a
21 lack of -- I think there is some confusion.

22 Q. Okay. What I'm trying to find out is whether
23 you've heard any Radio Shack supervisor or manager make
24 what you thought was a negative or offensive comment
25 about a Radio Shack employee because of that employee's

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1 age.

2 A. Not directly, but indirectly, yes.

3 Q. Okay. Let's start with, I just -- whether
4 directly or indirectly, have you heard with your own two
5 ears any derogatory comment by a supervisor or manager
6 at Radio Shack based on an employee's age? So that's
7 yes or no.

8 A. I have not heard.

9 Q. Have you ever heard any Radio Shack supervisor
10 or manager make any jokes that were based on age that
11 you found offensive in some way? Again, I'm talking
12 about with your own two ears.

13 A. I talked to one manager that took over the
14 store. She called me up and said that Radio Shack needs
15 some new ideas in 3830. The old ideas are no longer
16 effective, or we need some -- some younger ideas.

17 Q. All right. I'm sorry, this was after you were
18 terminated?

19 A. No, that was during the time I was working
20 there, before I was terminated.

21 Q. Okay. So while you're working at Radio Shack.
22 Who was this person who made the comment?

23 A. Amy.

24 Q. Who is Amy?

25 A. The one that took over my old store.

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1 Q. Is that Amy Tan?

2 A. Yes.

3 Q. Okay. And what was Amy's position when she was
4 making this comment?

5 A. She was working as store manager on -- what was
6 it? On Clement.

7 Q. Okay. So at the time Amy Tan made this comment
8 to you, she was the store manager on Clement Street?

9 A. Yes.

10 Q. And you were the store manager at 3830?

11 A. Yes.

12 Q. Okay. And was this a face-to-face conversation
13 or a telephone conversation?

14 A. Telephone conversation.

15 Q. And who initiated the conversation, you or Amy?

16 A. She called me up.

17 Q. Did she tell you why she was calling you?

18 A. She called me up, told me that she can run my
19 store better than I can run my store.

20 Q. So, did she tell you why she was calling you?

21 A. Because she can run my store better than I
22 could.

23 Q. So it's your testimony that Amy Tan picks up the
24 phone for the purpose of telling you that she could run
25 your store better than you could?

1 A. Yes.

2 Q. Those were her words?

3 A. Yes.

4 Q. Did you ask her why she was calling you to tell

5 you that?

6 A. No, I didn't ask her that.

7 Q. When did this conversation take place in

8 relation to the date of your termination?

9 A. Oh, almost, oh, about a week. Yeah, about a

10 week, two, a week and a half.

11 Q. A week and a half before your termination?

12 A. Yes.

13 Q. Okay. And Amy Tan calls you up and says she

14 thinks she can run your store better than you can. What

15 else did she say? Well, what did you say in response to

16 that?

17 A. "Come on down."

18 Q. And what did she say?

19 A. She said, "Oh, I was just kidding with you,

20 Frank. I was just kidding with you." But I took it as

21 she already knew she was on her way down.

22 Q. So your response was, "Come on down"?

23 A. "Come on down."

24 Q. And then she says, "I'm just kidding with you"?

25 A. Yes.

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1 Q. Did she say anything else during this
2 conversation?

3 A. Then the con -- we changed the conversation
4 again.

5 Q. Okay. I thought you said earlier that she made
6 some comment about Radio Shack needing new ideas?

7 A. Yes.

8 Q. Was that in this same phone conversation?

9 A. Same phone conversation.

10 Q. So tell me what her exact words were about that
11 subject in this telephone conversation.

12 A. She said that she can come down and run 3830
13 better than I can, and she said Radio Shack 3830 need
14 some new ideas, and the old ideas are not effective
15 anymore. And I said, "Well, we just got" -- "we just
16 hit \$1.4 million, starting from a store that was doing
17 \$650,000." And I said, "So I think the ideas are pretty
18 good." And from there, she said, "Yeah, yeah. Okay. I
19 was just kidding," and then we went on to talk about
20 something else.

21 Q. Were you friends with Amy Tan?

22 A. Not friends.

23 Q. Did you have -- you were working colleagues?

24 A. Yes.

25 Q. Did you have what you considered a positive

1 relationship with her?

2 A. No.

3 Q. Did you like her?

4 A. I didn't have anything against her, but she
5 couldn't be trusted.

6 Q. Did you have any further conversations with
7 Amy Tan about anything having to do with you or your
8 store, other than what you've testified to?

9 A. No.

10 Q. Okay. Other than Amy Tan and what you've
11 already testified to, did you ever hear with your own
12 ears any supervisor or manager make any other comments,
13 jokes, that you thought were derogatory to an employee
14 based upon age?

15 A. No.

16 Q. All right. Now, I gather -- you gave me this
17 list earlier. And so I'm going to go back over the
18 names and ask you to tell me what, if anything, they
19 said about anything having to do with age. The first
20 one was Alex Basher. Did Alex tell you that he had
21 heard anything -- any derogatory comments or jokes based
22 on an employee's age?

23 A. They all had said that Radio Shack was in the
24 process of getting rid of all the senior managers.

25 Q. Okay. So let me ask you this: Have you heard

1 from any source, either current or former employee of
2 Radio Shack, that that person has heard someone, a
3 manager at Radio Shack, make a derogatory comment or a
4 joke based on age?

5 A. They didn't give any specific names, no.

6 Q. But has someone told you that they have heard
7 jokes or comments based on age?

8 A. Comments.

9 Q. Okay. Who's told you that they have heard
10 comments that were based on age?

11 A. Everyone on that list.

12 Q. Okay. So let's start with Alex Basher, then.
13 First of all, do you know how old Alex is?

14 A. About 52.

15 Q. And do you know how long he's worked for Radio
16 Shack, approximately?

17 A. 25 years.

18 Q. And he's still employed?

19 A. Yes.

20 Q. So what did Alex tell you, in terms of what he
21 heard about having -- anything relating to older
22 employees at Radio Shack?

23 A. That Alex told me that they were getting ready
24 to have a new image, and what they was doing is -- was
25 eliminating a lot of the older managers that was with

1 Radio Shack.

2 Q. Did Alex tell you where he was getting this
3 information from?

4 A. No.

5 Q. So did you understand that Alex was basically
6 expressing his opinion that that's what was happening?

7 A. Yes.

8 Q. Did he point to any specific examples of where
9 he thought that Radio Shack was eliminating older
10 employees?

11 A. Um, no more than some of the ones that had --
12 that he knew in other districts had gotten fired.

13 Q. Did he give you any names?

14 A. No.

15 Q. What about in your district, did he mention
16 anyone in your district that he thought was being fired
17 or eliminated because of age?

18 A. Um, yes.

19 Q. Who did he mention?

20 A. Um, he mentioned actually everybody that was
21 over 45, 50. He was mentioning that -- there wasn't
22 anybody specific, but he was saying that this is the
23 movements that they're doing, is to eliminate people
24 that was 50 and over.

25 Q. And again, did he tell you where he'd heard

1 that?

2 A. No, he didn't. Now, the same conversation came
3 with all of those guys. The same conversation is with
4 all those managers that I give you the names of.

5 Q. Okay. Let me --

6 A. They're all saying the same thing.

7 Q. Okay. So Tom Nabozny, you talked about the
8 conversation you had with him in 2007. Right?

9 A. Right.

10 Q. Okay. Since 2007, you've had no conversation
11 with Tom Nabozny --

12 A. No.

13 Q. -- right? Okay. And you told me everything
14 about your conversation in 2007 that had to do with
15 employees being terminated because of their age?

16 A. Yes.

17 Q. Okay. And did Tom Nabozny tell you where he was
18 getting his information?

19 A. No.

20 Q. Then you mentioned Basem. You mean Basem Saba,
21 right?

22 A. Yes.

23 Q. And do you know how old Basem Saba is?

24 A. 54, 55 -- from 50 to 55.

25 Q. You mentioned Nina. How old is Nina?

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1 A. Nina's about 45 to 50, somewhere along there.

2 Q. I'm sorry, is Nina still there or not?

3 A. Yeah, she's till there.

4 Q. Okay. Mert?

5 A. Mert is about 50, 52, 50 to 55.

6 Q. And he's still there?

7 A. Yes.

8 Q. And what about Carlos?

9 A. Carlos is no longer there.

10 Q. And how old is Carlo?

11 A. Carlos is about 35, 40.

12 Q. And did Carlos, to your knowledge, resign
13 voluntarily or was he terminated?

14 A. He resigned -- I believe he resigned
15 voluntarily.

16 Q. Is it your testimony, though, that -- well,
17 we've talked about Alex and Tom, but Basem Saba, Nina,
18 Mert and Carlos expressed the opinion to you that Radio
19 Shack wanted to get rid of older employees?

20 A. Yes. And they -- they even mentioned it at the
21 meeting that we had. I forgot that they said it, but
22 they did say it at the meeting.

23 Q. What meeting was that?

24 A. The meeting on Thursday with Hani, Donna.

25 Q. Okay. The meeting that you testified about --

1 the district manager meeting that -- I'm sorry, the
2 district meeting that took place in about December of
3 2009?

4 A. Yes.

5 Q. Okay. So at that meeting, who expressed that
6 opinion?

7 A. Um, Nina, Basem, um, Alex.

8 Q. Anyone else?

9 A. That's all I remember.

10 Q. Okay. So at that store manager meeting of your
11 district in about December 2009, Nina, Basem Saba and
12 Alex Basherri all voiced the opinion that Radio Shack was
13 trying to get rid of older workers?

14 A. Yes.

15 Q. And was there any response to that comment by
16 anybody?

17 A. No, the room got silent.

18 Q. Did anyone say anything else?

19 A. No.

20 Q. So I take it that you never heard Donna Ocampo
21 say anything derogatory about anybody's age, did she?

22 A. Not with the visit that we were

23 Q. At any time.

24 A. No.

25 Q. As you sit here now, do you believe Donna Ocampo

1 has a bias against you because of your age?

2 A. I think Donna was doing exactly what she was
3 told to do. As far as her being biased, I think she was
4 doing her job.

5 Q. Okay. But that wasn't my question, and I'll
6 give you a chance to tell me about your thinking on
7 that, but I really want to know if you, as you sit here
8 now, believe that Donna Ocampo, herself, has a bias
9 against you because of your age.

10 A. I don't know.

11 Q. Do you have any reason to think that she does?

12 A. I don't have an idea, because it's such a short
13 time there, I don't -- I'm not for sure how she felt
14 about it.

15 Q. Was Donna polite to you in her dealings with
16 you?

17 A. Polite?

18 Q. Yes.

19 A. No, she was pretty much standoffish.

20 Q. Was she rude?

21 A. There was some times when I thought she was
22 rude.

23 Q. When you say you thought there were times when
24 she was rude, what did she do or say that made you think
25 she was being rude?

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1 A. The attitude towards a question, the
2 aggressiveness of the question that's being presented.

3 Q. So, do you have a specific example in mind?

4 A. It would almost be -- it was almost as if she
5 would make up a reason to -- make up a question or a
6 situation and then point it out and say, "This is
7 wrong," or "This is broken."

8 Q. Okay. Can you tell me when that happened, give
9 me an example of what you're talking about?

10 A. She would come in and look at the displays on
11 the wall, and she would look at it and say, "This is
12 wrong. This is not right," or, "Why is it this way?"
13 Or, "Your people don't know how to do planograms." And
14 that's what she would do.

15 Q. Okay. And you thought that was rude?

16 A. Yes, I did.

17 Q. Okay. But was she basically commenting upon the
18 appearance of the store?

19 A. She was making an opinion of the store, but even
20 though she made an opinion of the store, the store
21 planogram was done properly, but she still say that it
22 was not done properly. It was not

23 Q. Okay, so let me just make sure I understand what
24 you're saying. Donna Ocampo would point out something
25 that she felt was in violation of the planogram, and you

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1 felt that it was consistent with the planogram?

2 A. Yes.

3 Q. I'm not trying to put words in your mouth. I'm
4 just trying to understand what you're saying.

5 A. What I'm saying is she would come in, and she
6 would deliberately find something, look for something
7 that was wrong so that she would be able to come back
8 and voice her opinion or find fault about it.

9 Q. Okay. But she was your boss, right?

10 A. Right.

11 Q. And it was part of her job to point out areas
12 where she thought you weren't doing things correctly,
13 right?

14 A. Yes.

15 Q. So I'm just trying to understand why -- what
16 was -- why were you bothered when she would do that?

17 A. Not that she was my boss -- and I understand
18 that every time your boss walked -- my boss walked into
19 the store, regardless of how perfect the store is, when
20 they walk in, their whole purpose is to come through and
21 find other things or to change things around in the
22 store.

23 But with her, it was completely different, the
24 way that she would do it. It wasn't that I was pointed
25 out that this was wrong, but if it was -- it was just a

1 nagging factor that she would do, to bring out a
2 situation that the problem -- something wrong with the
3 problem.

4 Q. So you thought that she -- well, did you
5 understand that she was expressing her opinion?

6 A. Yes.

7 Q. And did you think there was something wrong with
8 her expressing her opinion?

9 A. How she was expressing it.

10 Q. Okay. That's what I'm trying to understand. So
11 how was she expressing her opinion that you had a
12 problem with?

13 A. As if I'm looking for something to crucify you
14 with, something that I can get you with. That's the way
15 her attitude was in the store. "I'm looking for
16 something, anything I can find, to get you. That's what
17 I'm looking for."

18 Q. But what makes you say that? I understand you
19 hold that opinion, but what makes you say that, that she
20 was looking for something to get you with?

21 A. That was her personality. That's what she was
22 good at doing. That's what she was known for doing.

23 Q. Okay. That was her reputation throughout the
24 district?

25 A. Yes.

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1 Q. Did the other store managers share -- did you
2 and the other store managers talk about that amongst
3 yourselves?

4 A. Yes.

5 Q. And was there agreement among all the --

6 A. 100 percent.

7 Q. A hundred percent of the store managers, that
8 that was the way -- that was her -- the way she
9 operated?

10 A. Yes.

11 Q. So all the store managers under Donna were
12 basically complaining about her and felt that she was
13 looking to find fault with them; is that a fair
14 statement?

15 MS. VERONESE: I think that misstates testimony.
16 He didn't say all.

17 THE WITNESS: No, Amy -- Amy loved her. Amy
18 loved her, and I don't think -- I don't think there's
19 too many more. I don't know -- not all, but there was
20 no more than a couple more that -- none of them trusted
21 her.

22 MS. THOMPSON: Q. That's what I'm trying to
23 understand. Okay. So other than Amy -- I thought you
24 said a hundred percent before.

25 A. I did. I made a mistake.

1 Q. All right. So now you're saying a hundred
2 percent minus Amy?

3 A. And a couple others.

4 Q. And who were the others?

5 A. Um, very few of them.

6 Q. I understand that, but who are they?

7 A. I don't know names, but very few. There was --

8 Q. Okay. So other than Amy, every other store
9 manager in Donna Ocampo's district was complaining about
10 the way that she was doing her job?

11 A. Yes.

12 Q. And all of them felt that she was looking for
13 things that were wrong in their stores, right?

14 A. Entrapment.

15 Q. Well, I'll get to that in a second, but you have
16 to answer my question first. So as far as the opinions
17 that were being expressed to you, the other store
18 managers other than Amy, they were all complaining that
19 every time Donna came into their store, she was looking
20 to find fault, right?

21 A. Yes.

22 Q. So you weren't the only one who held that
23 opinion?

24 A. No.

25 Q. And then you just mentioned -- you said the word

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1 "entrapment," and I'm not sure what you meant by that.

2 Can you explain --

3 A. Meaning that whatever she can find to -- to
4 eliminate you, or to get you, as far as a write-up or
5 whatever it be. She was looking -- Donna had a thing
6 about taking pictures, and going into stores and finding
7 something going on and take a picture of it. And she
8 would send it to all the other district managers and
9 say, "Look what I found. Look what I've got." And she
10 was known for doing that.

11 Q. Okay. So is it fair to say that you and the
12 other store managers in the district, with the possible
13 exception of Amy, all complained to one another that you
14 felt that Donna was trying to entrap you in some way?

15 A. Yes.

16 Q. That was the commonly held opinion?

17 A. Yes.

18 Q. It was your opinion, and other people shared
19 that same opinion with you?

20 A. Yes.

21 Q. Okay.

22 All right. Let's mark the next document as
23 Exhibit 4.

24 (DEFENDANT'S EXHIBIT NO. 4

25 WAS MARKED FOR IDENTIFICATION.)

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1 MS. THOMPSON: For the record, I've marked as
2 Exhibit 4 a one-page document Bates numbered RS/Allen
3 -192.

4 Q. And please take as much time as you need to read
5 this.

6 (Pause.)

7 All right. Have you seen Exhibit 4 before
8 today?

9 A. Yes.

10 Q. Is Exhibit 4 a true and correct copy of a
11 corrective action record that you received on or about
12 March 23rd, 2010?

13 A. Uh, it was more to it than what's put on here.

14 Q. Well, I'll get to that in a minute, but --

15 A. Okay.

16 Q. -- you've seen Exhibit 4 before today?

17 A. Right.

18 A. Yes.

19 Q. And Exhibit 4 is a corrective action record that
20 was given to you on March 23rd, 2010, right?

21 A. Right.

22 Q. Okay. And that's your signature on the bottom,
23 about two-thirds of the way down on the left?

24 A. Yes.

25 Q. And is that Donna Ocampo's signature next to

1 your signature?

2 A. I don't know.

3 Q. Okay. You don't recognize that signature?

4 A. No.

5 Q. Okay. Did Donna Ocampo present you with
6 Exhibit 4 in person?

7 A. No.

8 Q. How did you receive Exhibit 4?

9 A. The loss prevention manager wrote this up.

10 Q. I'm sorry?

11 A. The loss prevention manager wrote -- written
12 this up.

13 Q. Okay. Did the loss prevention manager give this
14 to you?

15 A. Yes.

16 Q. And was that David Gonsolin?

17 A. Yes.

18 Q. Okay. When you say there was more to Exhibit 4,
19 what do you mean by that?

20 A. Laptops on display not secured. They was --
21 they was all secure. Cage counts was all up to date.
22 Laptops was in the back room. They were secured in the
23 cage. Um --

24 Q. Hang on one second. I thought you said there
25 was more to Exhibit 4. Did you mean that there was

1 missing pages to the document?

2 A. No, meaning that what was put down here was just
3 partially what was down here.

4 Q. I'm sorry. I'm not understanding that. Did you
5 receive this document, Exhibit 4, from David Gonsolin?

6 A. Yes.

7 Q. Okay. Did you discuss it with him?

8 A. Yes.

9 Q. Okay. And in the corrective action record, you
10 were told that the issue to correct was failure to
11 protect company assets from internal and external theft,
12 correct?

13 A. Yes.

14 Q. Okay. And it notes, "5 laptops on display, not
15 secured, only screamers." First of all, what's a
16 screamer, do you know?

17 A. Of course I do.

18 Q. Okay. 'Cause I don't, so sorry.

19 A. A screamer is what we had to secure the laptops
20 with. The laptops -- a screamer is that -- a sticker
21 that you lock onto the laptop onto a counter, and if you
22 pull the screamer off, it start making a very loud
23 noise.

24 Q. Okay. So is it true that the five laptops that
25 were on display were only secured by screamers?

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1 A. Yes.

2 Q. Okay. And that's what this says, "5 laptops on
3 display, not secured, only screamers," right?

4 A. That's all we had. And I told him that that's
5 all we had.

6 Q. So you had no means of securing the laptops
7 other than screamers; is that what you're saying?

8 A. Other than screamers, that's all we had, and I
9 told him that.

10 Q. And what did he say?

11 A. He ordered me some. He ordered me some things
12 that he wanted me to use to secure. He ordered them.

13 Q. Well, is there some reason why you had not
14 ordered them, yourself?

15 A. I didn't have the authority to order them.

16 Q. Well, had you ever asked anyone to order them
17 for you so you could secure the laptops?

18 A. Yes.

19 Q. Who else?

20 A. My district manager.

21 Q. Who was that?

22 A. My district manager, Hani.

23 Q. Okay.

24 A. And we had screamers on the laptops. The
25 laptops were secure.

1 Q. So -- let me make sure I understand something.

2 A screamer would only make a loud noise; it would not
3 prevent somebody from grabbing the laptop and running,
4 right?

5 A. Even the ones that he give me was not enough to
6 keep people from grabbing it and running.

7 Q. Well, I'll get to that in a minute. I just want
8 to make sure I understand the concept of screamers. The
9 whole point of a screamer was that it wasn't securing
10 the item; it would just make a noise, right?

11 A. Right.

12 Q. Okay. And so when you said "he," meaning
13 David Gonsolin, ordered you something, what ultimately
14 were you given to secure the laptops?

15 A. Locks.

16 Q. Locks. What do you mean, what kind of locks?

17 A. A lock that you would stick in this hole here
18 (indicating).

19 Q. You'd stick into the computer?

20 A. Yeah, and it was a combination lock.

21 Q. And what would it be attached to?

22 A. It would be attached to the shelf.

23 Q. Okay. So that was a physical restraint on the
24 computer, right?

25 A. Yes.

1 Q. Who is that?

2 A. Hani put them back there. He put them back
3 there.

4 Q. We're not talking about -- Hani's gone in March
5 of 2010, right?

6 A. Right.

7 Q. So we're talking about in March of 2010, the
8 laptops were -- it says, "were not secured in the back
9 room." And you're saying they were secured in the back
10 room?

11 A. They were secured.

12 Q. How were they secured in the back room?

13 A. In the manager's office.

14 Q. So you're saying the mere fact that they were in
15 the manager's office meant they were secured?

16 A. With the locked door, because that's the only
17 place I had to put them.

18 Q. Well --

19 A. That's where my previous district manager had
20 told me to put them, so that's where they were at when
21 they came in.

22 Q. All right. "David Gonsolin RLPM and I made room
23 in the cage to protect the laptops." Is there some
24 reason you could not have made room in the cage to
25 protect the laptops?

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1 A. That could have been done.

2 Q. Okay. So you were being criticized because
3 David Gonsolin, the regional loss protection manager,
4 felt the laptops were not secured in the back room,
5 right?

6 A. Right.

7 MS. VERONESE: And Donna Ocampo, she wrote this
8 document.

9 MS. THOMPSON: That's unclear.

10 MS. VERONESE: Well, it says "and I."

11 MS. THOMPSON: Well, we don't know. He says he
12 doesn't recognize the signature. So, I'm afraid --
13 that's what I thought as well, but the witness is --

14 THE WITNESS: I don't know whose signature that
15 is.

16 MS. THOMPSON: Q. Right, so --

17 MS. VERONESE: Okay. But it wasn't David who
18 wrote the document.

19 MS. THOMPSON: I'm not arguing with anybody.
20 I'm trying to find out from the witness what he knows
21 about it.

22 Q. Do you know who wrote the document, Exhibit 4?

23 A. "Supervisor, Donna Ocampo." I don't know who
24 wrote it. I never seen Donna's signature before.

25 Q. That's fair enough. So your testimony is you

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1 don't know who wrote Exhibit 4, right?

2 A. Right.

3 Q. Okay. And I asked you if you discussed it with
4 Donna Ocampo, and I thought you said no.

5 A. I talked to Dave about this.

6 Q. We're not talking about Dave. That's what I
7 thought you said. My question to you is, did you ever
8 discuss Exhibit 4 with Donna Ocampo?

9 A. I don't remember talking to Donna about this.

10 Q. Okay. You spoke to David Gonsolin about it,
11 right?

12 A. Yes.

13 Q. Okay. Had you ever met David Gonsolin before
14 March 23rd, 2010?

15 A. Yes.

16 Q. When had you first met him?

17 A. Oh, about two, three years prior to this.

18 Q. Okay. So when you talked about the store
19 visit with Greg Patakas in December of 2009, was it
20 David Gonsolin that --

21 A. He was not around.

22 Q. So he was -- he was not on that store visit?

23 A. No.

24 Q. Okay. Do you have any reason to believe that
25 David Gonsolin is biased against you because of your

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1 race?

2 A. Personally, no.

3 Q. Do you have any reason to believe that
4 David Gonsolin is biased against you because of your
5 age?

6 A. Personally, no.

7 Q. What do you mean by "personally"?

8 A. "Personally" meaning that I don't think him
9 personally. I think that, once again, that he had a job
10 to do.

11 Q. Okay. All right. I understand what you're
12 saying now. So in terms of David Gonsolin, himself, you
13 do not think that he bore you any -- had any bias
14 against you because you're African-American; is that
15 true?

16 A. Yes.

17 Q. And you also don't think David Gonsolin
18 personally had a bias against you because of your age,
19 right?

20 A. Yes.

21 Q. But it's your opinion that David Gonsolin was
22 operating under instructions from somebody else?

23 A. Yes.

24 Q. And who would that somebody else be that --

25 A. It could have been Greg, because Greg was the

1 Q. What's your source of information?

2 A. Tom Nabozny.

3 Q. Okay, your conversation with Tom Nabozny in
4 2007?

5 A. Right.

6 Q. And did he tell you why he was making those
7 statements in 2007?

8 A. Because evidently he was in a meeting with them,
9 and that was the plan.

10 Q. Did Tom Nabozny tell you that he was in a
11 meeting?

12 A. Yes, he did.

13 Q. And did he tell you who was present in this
14 meeting?

15 A. No, he did not.

16 Q. Okay. So your testimony is that in 2007,
17 Tom Nabozny told you he was in a meeting with some
18 unidentified persons, and what was discussed?

19 A. Um, changing the image of Radio Shack.
20 Eliminating the elders that was in Radio Shack, the
21 senior managers in Radio Shack, and changing the image
22 around.

23 Q. Okay. All right. So I understand you had that
24 conversation with Tom Nabozny in 2007. Now we're in
25 2010, and we're talking to David Gonsolin. Did

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1 David Gonsolin say anything to you that suggested to you
2 that he was operating under orders from somebody, in
3 issuing or discussing Exhibit 4 with you?

4 A. Did he? No, he did not.

5 Q. The next bullet point on Exhibit 4 says,
6 "Several months of numerous cash shortages were found."
7 Is that a true statement?

8 A. Yes.

9 Q. The next sentence reads, "You failed to report
10 the shortages and did not have an explanation as to why
11 they are happening." Is that a true statement?

12 A. No, it's not.

13 Q. Okay. So how many cash shortages did you have
14 in that period?

15 A. I'm not for sure how many we had, but we had
16 quite a few.

17 Q. And what was the dollar amount of the cash
18 shortages, do you know?

19 A. No, I don't.

20 Q. What was your explanation for the cash
21 shortages?

22 A. We have a prepaid phone that is named Boost
23 Mobile.

24 Q. I'm sorry, what?

25 A. Boost.

1 A. That's what he's talking about.

2 Q. Well, okay. I'm asking you about the "several
3 months of numerous cash shortages" referenced in
4 Exhibit 4. What was your estimate of the dollar value
5 of those cash shortages?

6 A. I don't -- about -- once again, about 6- to
7 \$800.

8 Q. I'm sorry, I thought you said that was over the
9 course of a year.

10 A. That's what they're talking about. That's what
11 this is saying here. That's what this was about, about
12 a year.

13 Q. Well, the words are, "several months of numerous
14 cash shortages were found."

15 A. Hmm.

16 Q. Right?

17 A. Right.

18 Q. Okay.

19 A. He went a year back.

20 Q. Where are you getting that idea, that he went a
21 year back?

22 A. I was there. He showed me.

23 Q. I'm sorry, so did David Gonsolin do a store
24 visit with you on March 23rd, 2010?

25 A. David pulled this report up. David did the

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1 report -- David did the cage count.

2 Q. When did he do that?

3 A. On this date (indicating).

4 Q. On March 23rd, 2010?

5 A. Yes.

6 Q. Okay. Was Donna Ocampo in the store?

7 A. She was in the store.

8 Q. Okay. So this Exhibit 4 was written up on the

9 same day that the store visit occurred with

10 David Gonsolin and Donna Ocampo?

11 A. Yes.

12 Q. You sure about that?

13 A. Positive, because Dave sit down on a box in the
14 middle of the back room floor while Donna and I was
15 walking around in the store. He used his laptop to pull
16 up all the information, because he didn't go into the
17 office.

18 Q. He pulled up what information?

19 A. He -- this information.

20 Q. You have to be more specific. What information
21 did he pull up?

22 A. The several months of numerous shortages.

23 Q. Okay.

24 A. He pulled that up on the laptop.

25 Q. Right while you were there?

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1 A. Yes.

2 Q. Okay. And so he showed those to you?

3 A. Yes.

4 Q. And he told you that you failed to report the
5 shortages --

6 A. Yes.

7 Q. -- and did not have an explanation?

8 A. Yes. This didn't happen while he was there or
9 Donna was there. They wasn't even around at the time
10 when this happened.

11 Q. Who wasn't around?

12 A. Donna and Dave. They were not in charge of the
13 store during the time that that happened.

14 Q. Oh. What was the time period that it happened?

15 A. That was the year prior to that. She was

16 Q. You're totally losing me now. I have no idea
17 what you're saying. I'm sorry, maybe it's my fault,
18 but --

19 A. The shortages on here.

20 Q. Yes.

21 A. I would not have the shortages when they came
22 into the store.

23 Q. All right. So let's just be very clear here,
24 then. When it states, "several months of numerous cash
25 shortages were found," end quote, that's a true

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1 statement, right?

2 A. Yes.

3 Q. And for what time period did you have?

4 A. It was about a year ago.

5 Q. All right. You're saying that even though this

6 document is dated March 23rd, 2010, the months --

7 "several months of numerous cash shortages" was

8 referring to a year before?

9 A. Yes.

10 Q. So sometime in 2009?

11 A. Yes.

12 Q. And what makes you say that?

13 A. I mentioned it to Dave. I showed Dave. David

14 showed me on the computer what he was doing, where he

15 got it from. I said, "You guys wasn't even around

16 during this time."

17 Q. Regardless of whether they were around or not,

18 there were numerous cash shortages, right?

19 A. Right.

20 Q. And they were telling you failed to report them,

21 right?

22 A. Right.

23 Q. And you said, "That's not true."

24 A. "That's not true."

25 Q. And were you able to show them where you had

1 made the reports?

2 A. Made the reports?

3 Q. Right.

4 A. No, because it was sent in on the computer. It
5 was typed in in the computer.

6 Q. Okay. Were you able to show him that you had,
7 in fact, reported those cash shortages?

8 A. No.

9 Q. All right, now, did you provide any written
10 rebuttal at all to Exhibit 4 after it was given to you?

11 A. No.

12 Q. You've testified that you disagreed with at
13 least some of the comments on Exhibit 4, correct?

14 A. Yes.

15 Q. Is there some reason why you didn't write a
16 written response, setting forth your disagreement?

17 A. Comments. No.

18 Q. And you see on the form, itself, you see --

19 A. I see.

20 Q. -- there's space for "Employee Comments," right?

21 A. Yes.

22 Q. And there's nothing in there?

23 A. Yes.

24 Q. As you sit here now, do you have any reason why
25 you didn't put in Exhibit 4 why you disagreed with

1 Exhibit 4?

2 A. I verbally said something to him, but I didn't
3 write it down.

4 Q. Okay. That's what I'm asking you. Was there
5 some reason why you didn't put it in writing on the
6 document in the space designated for "Employee Comments"
7 if you, in fact, disagreed with the document?

8 A. No.

9 Q. And you understood that, quote, "Failure to
10 achieve the required improvement will lead to additional
11 disciplinary action, including and up to termination"?

12 A. Yes.

13 Q. And you understood that as of March 23rd, 2010,
14 right?

15 A. Right.

16 MS. THOMPSON: Okay. Why don't we adjourn for
17 the day? I'm sorry. It's been a long day.

18 THE VIDEOGRAPHER: Okay. This ends tape four,
19 Volume I. We're going off the record at 4:45.

20 (The deposition was adjourned at 4:45 o'clock
21 p.m.)

22
23 _____
24 Signature of Witness
25

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CERTIFICATE

I, the undersigned, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was first duly sworn to testify to the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place therein stated; that the testimony of said witness was reported by me, a disinterested person, and was thereafter transcribed under my direction into typewriting; that the foregoing is a full, complete and true record of said testimony; and that the witness was given an opportunity to read and, if necessary, correct said deposition and to subscribe to the same.

I further certify that I am not of counsel or attorney for either or any of the parties in the foregoing deposition and caption named, nor in any way interested in the outcome of the cause named in said caption. Executed this 26th day of February, 2012.


CERTIFIED SHORTHAND REPORTER
NO. 5697

PATRICIA CALLAHAN REPORTING

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FRANK ALLEN,

Plaintiff,

vs.

No. CV 11 3110 WHA

RADIO SHACK CORPORATION, et al.,

Defendants.

_____/

DEPOSITION OF FRANK ALLEN, JR.

VOLUME II

October 2, 2012

Reported by:
LaRelle M. Fagundes
CSR No. 9762

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PATRICIA CALLAHAN REPORTING

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Dec. of Thompson - Exhibit 2

1 BE IT REMEMBERED THAT, pursuant to Notice of
2 Taking Deposition, and on Tuesday, October 2, 2012,
3 commencing at the hour of 9:57 o'clock a.m. of the said
4 day, at the law offices of MILLER LAW GROUP, 111 Sutter
5 Street, Suite 700, San Francisco, California, before me,
6 LARELLE M. FAGUNDES, a Certified Shorthand Reporter,
7 personally appeared FRANK ALLEN, the plaintiff in the
8 above-entitled court and cause, produced on behalf of
9 the defendants therein, who being by me first duly
10 sworn, was then and there examined and interrogated by
11 Attorney TRACY THOMPSON, representing the law firm of
12 MILLER LAW GROUP, 111 Sutter Street, Suite 700,
13 San Francisco, California, counsel for the defendants.
14

15 APPEARANCES OF COUNSEL
16

17 FOR PLAINTIFF:

18 LAW OFFICES OF MAYOR JOSEPH L. ALIOTO &
19 ANGELA ALIOTO

20 BY: ANGELA MIA VERONESE, ESQ.

21 700 Montgomery Street

22 San Francisco, California 94111

23 (415) 434-8700
24

25 //

1 Everything I talked to him about -- everything I
2 did, I talked to him about.

3 MS. THOMPSON: Q. Okay. That's fine. That was
4 a slightly different question. I think you've already
5 testified about that.

6 I want to know what your reasons were for
7 keeping the cash in the back.

8 A. The reason why we kept the cash in the back --

9 Q. Right.

10 A. -- is because the cash register that we had in
11 the store was big enough to put the bills in the front,
12 but there was no place to put the rolls of coins in the
13 back of the drawer. So we kept the rolls of coins and
14 some ones and fives in the back.

15 Q. And the reason you did that was because there
16 was no room in the cash register drawer?

17 A. There was no room in the cash register drawer
18 for the change.

19 Q. But was there room in the cash register drawer
20 for the bills?

21 A. There was room for the cash -- for the bills,
22 but if we put all of those bills in there, in that area,
23 there was a lot of people getting robbed in that area,
24 and I didn't want to have the cash in the drawer so
25 people can walk in and look into it, because the way the

1 store was designed, people can walk right beside you and
2 look into the drawer and see what's in there.

3 Q. Okay. So I just want to make sure, because I'm
4 hearing two different things, and correct me if I'm
5 misunderstanding what you're saying, that the reason you
6 kept the coins in the back was because there wasn't room
7 in the cash register drawer for coins, right?

8 A. Yes.

9 Q. Okay. And the reason you kept any bills in the
10 back was because you were concerned about theft?

11 A. Yes, robbery.

12 Q. Okay. Any other reasons for keeping any of the
13 cash in the back -- the manager's desk in the back
14 office other than what you've already told me?

15 A. No.

16 Q. Okay. So last time I think you said that there
17 were three cash registers in your store.

18 Is that accurate, or is there -- I mean, how
19 many cash registers did you have in 938 Market Street?

20 A. In 938 Market Street?

21 Q. That's the new -- the remodeled store, right?

22 A. Mm-hmm.

23 Q. Is that "yes"?

24 A. Yes.

25 Q. Okay. So I just want to make sure that I

1 understand your testimony about that, because last time
2 you said there were three, and I want to make sure that
3 your -- that's still your testimony.

4 A. Yes, there's still -- there were three.

5 Q. And there were three cash registers the entire
6 time you were at 938 Market?

7 A. Yes.

8 Q. And there were three cash registers when you
9 left 938 Market?

10 A. Yes.

11 Q. As you sit here now, do you know of any other
12 store manager that kept any cash in the manager's desk
13 in the back office other than you?

14 A. I know -- I know one manager said to me, "I need
15 to take my cash from my desk, then."

16 Q. Okay. That's not my question.

17 My question is, do you know of any store
18 manager, other than you, who kept any cash in the
19 manager's desk in the back office instead of in the cash
20 register drawer in the cash registers?

21 A. Tim, the manager of Serramonte.

22 Q. I'm sorry?

23 MS. VERONESE: Slow down.

24 THE WITNESS: Tim, the manager at Serramonte,
25 said he needed to take his money out the desk and put it

1 conversation with Tim, the manager of the RadioShack
2 Serramonte store, that you just testified about?

3 A. Um, we were -- I'm not for sure where we was at
4 when we had it, but when we had the conversation when we
5 was in a store. I'm not for sure which store we was in.

6 Q. Okay. Was anybody else present besides you and
7 Tim?

8 A. One of his salespeople. Well, we was in
9 Serramonte. I was in Serramonte at his store, and
10 that's when he told me that.

11 Q. What were you doing at Tim's store in Serramonte
12 on this occasion?

13 A. Shopping.

14 Q. You went to Tim's store to go shopping in
15 Serramonte rather than your own store?

16 A. No. No. I was just shopping. I -- when I was
17 working for RadioShack, I would go to -- I would go to
18 all of the RadioShack stores just to go in there to see
19 what they're doing, see how their store looks, to see
20 how their merchandise is displayed, see how the
21 salespeople are approaching you.

22 Q. Oh, okay. So you weren't shopping. You were
23 going to check out the other store?

24 A. That's what I always do. I would go to the --
25 always go to the store and do that, RadioShack store,

1 regardless where I'm at.

2 Q. Okay. So when was this -- when were you at
3 Tim's store in Serramonte when you had this
4 conversation? When was that?

5 A. That was after I was fired.

6 Q. Okay. So how soon after you were fired were you
7 in the -- at Tim's store in Serramonte?

8 A. Within a week, two weeks. I'm not for sure, but
9 it was a short period of time.

10 Q. Okay. And so what was your purpose in being
11 there after you'd been terminated?

12 A. I wasn't allowed to go to RadioShack stores
13 after being terminated?

14 Q. That wasn't my question.

15 MS. VERONESE: Just answer her question.

16 MS. THOMPSON: Q. Yeah. I'm not trying to
17 argue with you. I just want to know, because before you
18 said you were going to see how other managers were doing
19 things, but now you told me it's after you were
20 terminated.

21 So what was your reason for being there after
22 you were terminated?

23 A. Love of the store. Just going -- like, I love
24 going to RadioShack. I love going to Home Depot.

25 Q. So it was more of a social visit, then?

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1 A. Yes.

2 Q. Okay. And so tell me what exactly you and Tim
3 said to one another on this -- during this visit.

4 A. I don't remember the conversation, but we was
5 just randomly talking.

6 Q. What do you remember about the conversation, if
7 anything?

8 A. I don't remember. I don't remember too much
9 about the conversation.

10 Q. Well, do you remember anything at all about the
11 conversation?

12 A. I don't remember.

13 Q. Well, I thought you said you remembered Tim
14 making some comment to you.

15 A. He did.

16 Q. Okay. So what were the exact words that he
17 used?

18 A. Um, that he needed to take the money that he
19 have in his desk and move it and put it somewhere else.

20 Q. Okay. So did you tell Mr. Tin -- Tim that you
21 had been fired for leaving money in your manager's desk?

22 A. Not only did Tim know about it, the whole
23 district knew about it.

24 Q. Okay. That wasn't my question, though.

25 Did you tell Tim that you had been terminated

1 for leaving money in the manager's desk?

2 A. I don't remember telling him that, no.

3 Q. Did that come up in the conversation at all?

4 A. Um, I don't remember.

5 Q. Drawing a complete blank?

6 A. Um, yes, I am.

7 Q. Okay. And the only thing that you remember
8 about this conversation is that Tim said to you that he
9 needed to take -- he needed to take money out of the
10 manager's desk?

11 A. Yes.

12 Q. Did he say anything else?

13 A. Um, we probably did, but that's what stuck in my
14 mind. That registered in my mind --

15 Q. Why is that?

16 A. -- why would he say something like that, "I need
17 to take the money out of my desk to put it somewhere
18 else."

19 Q. He said, "I need to take the money out of the
20 desk and put it somewhere else"? Is that what he said?

21 A. He said that he needed to take his money and put
22 it somewhere else.

23 Q. Okay. And, to the best of your recollection,
24 those were his exact words?

25 A. Yes.

1 Q. Did you ask him what he meant by that?

2 A. No.

3 Q. Did he say anything more about that?

4 A. No.

5 Q. Okay. How long did this conversation last?

6 A. Not that long at all.

7 Q. Five minutes, two minutes?

8 A. If that long.

9 Q. So some -- between two and five minutes?

10 A. Somewhere along in there.

11 Q. Okay. And was any -- was it just you and Tim
12 having this conversation?

13 A. Yes.

14 Q. Was anybody else within earshot, as far as you
15 knew?

16 A. There was a salesman that was there.

17 Q. And who was that?

18 A. I don't know his name.

19 Q. Okay. Was he part of the conversation or
20 just --

21 A. No.

22 Q. Okay. So the salesman was off working in the
23 store?

24 A. Yes.

25 Q. And was Tim working as well?

1 A. Yes.

2 Q. Okay. And was this on the sales floor?

3 A. Yes.

4 Q. Okay. And the only thing that you remember
5 either of you saying, during this conversation, was
6 that -- of Tim saying something like, "I needed to take
7 my money" -- "the money out of the manager's desk and
8 put it somewhere else," right?

9 A. Or take the money from where he has it and put
10 it somewhere. I'm not for sure if he used the desk.

11 Q. Okay.

12 A. But he said he had to take it and put it
13 somewhere else --

14 Q. Okay.

15 A. -- the extra change.

16 Q. So tell me what you -- I'm sorry. I don't mean
17 to confuse things, but I really want to make sure the
18 record is clear.

19 Tell me what were the words that he used that
20 you're remembering now.

21 A. I remember him saying that he needed to take his
22 money and put it somewhere else now.

23 Q. Okay. And to the best of your recollection,
24 were those the exact words that he used?

25 A. Yes.

1 Q. Okay. And in terms of that conversation, those
2 are the -- that's all that you remember about that
3 conversation?

4 A. Yes.

5 Q. Okay. Did you talk about that conversation with
6 anyone else at any time?

7 A. I don't understand the question.

8 Q. Did you ever tell anyone else about this
9 conversation other than today telling me?

10 A. I believe I did, yes.

11 Q. Who else did you tell?

12 A. Hmm, I think I talked to --

13 Q. Other than your lawyer.

14 A. No.

15 Q. Okay. So other than telling me right now and
16 telling your lawyer, you didn't tell anyone else about
17 that conversation between you and Tim; is that right?

18 A. No.

19 Q. That's not right?

20 Can I have the question read back, please.

21 (Record read by the reporter as follows:

22 "Q. So other than telling me right now and
23 telling your lawyer, you didn't tell anyone
24 else about that conversation between you
25 and Tim; is that right?")

1 MS. THOMPSON: Q. Okay. So my question, again,
2 was, are you aware of any other store manager who kept
3 cash in the manager's desk drawer other than you?

4 A. I never asked anyone. I'm not for sure.

5 Q. Okay. So as you sit here now, can you name
6 one -- any one other manager who kept cash in the back
7 drawer?

8 A. I'm not for sure.

9 Q. Well, can you name anyone that you know of? All
10 I'm asking you about is what you know of. As you sit
11 here now, do you know of any other manager, besides
12 yourself, who kept cash in the manager's desk drawer?

13 MS. VERONESE: I think he answered that. Asked
14 and answered.

15 THE WITNESS: Excuse me?

16 MS. VERONESE: Answer it again.

17 MS. THOMPSON: Can you read the question back.

18 THE WITNESS: I'm not for sure.

19 (Record read by the reporter as follows:

20 "Q. Well, can you name anyone that you know of?
21 All I'm asking you about is what you know
22 of. As you sit here now, do you know of
23 any other manager, besides yourself, who
24 kept cash in the manager's desk drawer?")

25 MS. THOMPSON: Q. So that's a yes or a no,

1 because I'm just asking you do you know of anyone.

2 A. No, I don't know of anyone.

3 Q. Okay. Are you familiar with something called
4 non-negotiable standards?

5 A. Yes.

6 Q. Have you heard that term before today?

7 A. Yes.

8 Q. Okay. And you heard that term while you were
9 working at RadioShack, right?

10 A. Yes.

11 Q. Okay. And what was your understanding of what
12 the non-negotiable standards were?

13 A. Standards of operation.

14 Q. Were these -- were they standards of operation,
15 to your understanding, that were company-wide?

16 A. Yes.

17 Q. And were all store managers expected to adhere
18 to those non-negotiable standards?

19 A. Yes.

20 Q. Did you receive training on the non-negotiable
21 standards?

22 A. It was ongoing training.

23 Q. Do you know when the non-negotiable standards
24 were adopted by the company?

25 A. No.

1 Q. Were you given any materials to read about the
2 non-negotiable standards?

3 MS. VERONESE: At any time during the 13 years?

4 THE WITNESS: Yes.

5 MS. THOMPSON: Yes, at any time.

6 THE WITNESS: Yes.

7 MS. THOMPSON: Q. What kinds of things were you
8 given to read about the non-negotiable standards?

9 A. Letters. Actually, the non-negotiable was
10 pretty much the basic operation of RadioShack that was
11 put into a booklet.

12 Q. And that was a booklet that the store managers
13 could have, use as a reference point?

14 A. Yes.

15 Q. Were they also available online?

16 A. I'm not for sure if it was online.

17 Q. Okay. But you recall seeing a hard copy?

18 A. Yes.

19 Q. Okay. And what was the name of the document
20 that you remember seeing?

21 A. Non-negotiable.

22 MS. VERONESE: If you remember.

23 MS. THOMPSON: Q. You remember that in the
24 title?

25 A. Yes.

1 Q. All right. And were you responsible for making
2 are sure all your sales associates complied with the
3 non-negotiable standards?

4 A. Yes.

5 Q. Okay. All right. Let's mark the next document
6 as 5.

7 (DEFENDANTS' EXHIBIT NO. 5 WAS MARKED FOR
8 IDENTIFICATION.)

9 MS. THOMPSON: Q. So, for the record, I've
10 marked as Exhibit 5 a multipage booklet called "The
11 Store Manager's Non-Negotiable Standards Reference," and
12 it's Bates number RadioShack/Allen 744 to 786.

13 So what I'd like you to do is take a couple of
14 minutes and see if this document looks familiar to you.

15 Have you had a chance to look at Exhibit 5?

16 MS. VERONESE: Look at all of the pages. Just
17 look at it.

18 MS. THOMPSON: Q. Yeah, please take as much
19 time as you need, and let me know when you've had a
20 chance to do that.

21 Yeah, for the record, I'll also note that
22 Exhibit 5 has, in the lower left-hand corner, the date
23 3-9 -- 3-09-10.

24 Okay. Have you had a chance now look at Exhibit
25 5?

1 A. Yes.

2 Q. Have you seen Exhibit 5 before today?

3 A. I never remember seeing this before.

4 Q. Okay. Well, you talked about getting a booklet
5 before about non-negotiable standards.

6 A. Right.

7 Q. Does this -- does Exhibit 5 look like the
8 booklet that you were describing?

9 A. No.

10 Q. What's different about it?

11 A. It's completely different. This book here --
12 this here -- um, the book that I'm talking about has
13 months, dates. It has what the weather is like, what's
14 going on today, what business was like. It has a chart
15 inside of it. I never seen this before.

16 Q. Okay. So you're familiar with answers online,
17 right, RadioShack's answers online?

18 A. Yes.

19 Q. Okay. What is RadioShack's answers online?

20 A. Um, RadioShack answers online is supposedly be
21 able to give you answers to questions that you may want
22 from RadioShack.

23 Q. Right. And isn't it true that on answers
24 online, you could access RadioShack company policies and
25 procedures?

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1 A. You may be able to do it if you know how to find
2 it.

3 Q. Well, you could go on to answers online, right?

4 A. Right.

5 Q. How hard was that to log on to answers online?

6 A. And finding certain documents or certain parts
7 that you want, very difficult.

8 Q. So you had a problem, I take it, from what
9 you're saying?

10 A. A lot of people do.

11 Q. Okay. I'm not talking about a lot of people.
12 I'm talking about you.

13 Is it your testimony that you had problems
14 finding documents online at RadioShack?

15 A. Yes.

16 Q. Okay. Was there something called a store
17 operations manual?

18 A. Store operation manager?

19 Q. Manual.

20 MS. VERONESE: Manual.

21 THE WITNESS: Manual. There was something
22 called that, yes.

23 MS. THOMPSON: Q. Okay. So just look at the
24 bottom of Exhibit 5 where it says, "answers online,"
25 then the word "operations," then "store ops manual."

1 A. Yes.

2 Q. Did you ever access the store ops manual online?

3 A. I tried.

4 Q. What do you mean you tried?

5 A. We had these store operation manual books in the
6 store, and it was five books that was about four-inches
7 thick, and you had to go through and find out what
8 information that you want to go through. But you had to
9 do some research to be able to find out where you wanted
10 to find that information at. So it was you had to
11 actually spend some time to be able to do some research,
12 or you call someone up and talk to them about it, and
13 then they would be able to help you with it.

14 Q. Okay. So if you wanted to find out what the
15 company's non-negotiable standards were, how would you
16 go about doing that?

17 A. If I couldn't find it, then I would call a
18 couple of other managers up and talk to them about it
19 and see how they tried to find it and see what the
20 results would be from there if I wasn't able to find it.

21 Q. Well, did you ever look online for "The Store
22 Manager's Reference" -- I'm sorry -- "The Non-Negotiable
23 Standards Reference"?

24 A. No, I didn't.

25 Q. Okay. Is there some reason why you never looked

1 at "The Store Manager's Non-Negotiable Standards
2 Reference"?

3 A. Because my district manager was always talking
4 to me about the red book, which was figures, numbers,
5 sales, tasks that would need to be taken care of.

6 Q. Well, you testified, I thought, correct me if
7 I'm wrong, that you were aware that RadioShack had
8 non-negotiable standards, which you described as
9 standards of operation, right?

10 A. Right.

11 Q. So if you wanted to find out what those
12 standards were, what would you do?

13 MS. VERONESE: He testified about the books that
14 he would go to.

15 MS. THOMPSON: Q. So you're testifying that you
16 had -- went to your hard copy books.

17 A. If that's what I -- I would go to the hard
18 copies, or I would go to the hard copy --- if I couldn't
19 find it on the Internet, then I would go to some senior
20 managers and ask them how would I find this information.

21 Q. Well, as you sit here now, did you, at any
22 occasion during your last few years of your employment,
23 to reference what the store -- what the non-negotiable
24 standards were?

25 A. I never had time to do that.

1 Q. So you never had time to find out what the
2 non-negotiable standards were?

3 A. When my district manager would come to the
4 store, he would bring in -- he would talk to me about
5 the book, the red book. He never talked to me about the
6 rules, the guidelines, the dos or the don'ts in
7 RadioShack.

8 Q. But wait. I don't mean to be arguing with you,
9 but you testified that you had ongoing training about
10 non-negotiable standards.

11 Is that true or not?

12 A. In the red book.

13 Q. I'm not -- I didn't ask you about the red book.
14 I asked you -- hang on. Because I -- I asked you about
15 whether you had any training with regard to the
16 company's non-negotiable standards, and you answered
17 yes.

18 So are you changing that testimony now?

19 A. No.

20 Q. Okay. So what training did you have on
21 non-negotiable standards?

22 A. In the red book.

23 Q. What's the red book?

24 A. That's the non-negotiable. That's what

25 RadioShack know -- that's what store managers know as

1 non-negotiable. They don't know anything about this.

2 Q. Well, I'm not asking about them. I'm asking
3 about you.

4 So you're saying you don't know anything about
5 Exhibit 5. Is that your testimony?

6 A. Yes.

7 Q. Okay. All right. Let's look -- even if you've
8 never seen this document before, let's look at page 746
9 of Exhibit 5. And so this deals with recruiting.

10 Are you with me?

11 A. Yes.

12 Q. Okay. So where it says, "Store Manager
13 Responsibilities," on page 746 --

14 A. Yes.

15 Q. -- it says, "Store Managers are responsible for
16 proactively recruiting inside and outside the store."

17 Is that a true statement?

18 A. Yes.

19 Q. Okay. And the next statement reads, "Regular
20 utilization of R Recruits will assist a manager in
21 finding qualified individuals from an available pool of
22 applicants."

23 Do you know what R Recruits is?

24 A. Yes.

25 Q. What is R Recruits?

1 A. RadioShack recruiting online.

2 Q. And so you understood that as part of your
3 responsibility to regularly utilize R Recruits to assist
4 you in finding qualified individuals?

5 A. Yes.

6 Q. And it was your responsibility to make sure all
7 of your store employees were trained; is that right?

8 A. Yes.

9 Q. And was it your responsibility for enforcing
10 RadioShack's -- ensuring that all team members were in
11 compliance with the RadioShack dress code guidelines?

12 A. Yes.

13 MS. VERONESE: For your store.

14 MS. THOMPSON: I'm sorry?

15 MS. VERONESE: Go ahead

16 MS. THOMPSON: Q. Okay. Let's turn to
17 RadioShack 761, please, and the heading, at the top,
18 says, "Asset Protection." Please take as much as time
19 as you need to review page 761 and 762. Let me know
20 when you're finished, please.

21 A. Okay.

22 Q. Do pages 761 and 762 of Exhibit 5 accurately
23 describe your duties and responsibilities as a store
24 manager with respect to asset protection?

25 MS. VERONESE: Read the next page.

1 MS. THOMPSON: Can I have the question read
2 back.

3 Q. Have you had a chance to read it?

4 THE WITNESS: Yes.

5 MS. THOMPSON: Okay. Could I have the question
6 read back.

7 (Record read by the reporter as follows:

8 "Q. Do pages 761 and 762 of Exhibit 5
9 accurately describe your duties and
10 responsibilities as a store manager with
11 respect to asset protection?")

12 THE WITNESS: Yes.

13 MS. VERONESE: And just to be clear, at this
14 time, in March of 2010?

15 MS. THOMPSON: No, that wasn't my question.

16 MS. VERONESE: Well, it says revised March 2010.
17 We don't know what the prior one said.

18 MS. THOMPSON: I know. That wasn't my question.

19 MS. VERONESE: Okay.

20 MS. THOMPSON: I can certainly follow up on
21 that.

22 Let's ask my question again, and I just want an
23 answer so the record is clear, and then I'll ask a
24 follow-up.

25 (Record read by the reporter as follows:

1 "Q. Do pages 761 and 762 of Exhibit 5
2 accurately describe your duties and
3 responsibilities as a store manager with
4 respect to asset protection?")

5 MS. VERONESE: Okay. Vague as to time.

6 MS. THOMPSON: At any time.

7 MS. VERONESE: Well, if this document was
8 revised in March of 2010, we don't know what the
9 document before it said. And if he's testifying to
10 these two pages --

11 MS. THOMPSON: He can tell me. He can tell me.
12 I think -- I don't think your objections are
13 appropriate. Make the objection, but we can't have
14 speaking objections.

15 MS. VERONESE: Okay. Fine.

16 MS. THOMPSON: So I'll start -- I'll back up, if
17 that will make things easier.

18 Q. Do Exhibits 761 and 762 accurately describe --
19 of Exhibit 5 accurately describe your duties and
20 responsibilities as a store manager with respect to
21 asset protection as of March 9th, 2010?

22 A. Yes.

23 Q. Okay. Did your duties and responsibilities with
24 respect to asset protection, were they different than
25 what's set forth in 761 and 762 before March 9th of

1 2010? Let me withdraw that.

2 Did your duties and responsibilities as a store
3 manager, with respect to asset protection, change, in
4 any way, let's say, over the last five years of your
5 employment?

6 A. Um, no.

7 MS. THOMPSON: Okay. Let's mark the next
8 document as Exhibit 6.

9 (DEFENDANTS' EXHIBIT NO. 6 WAS MARKED FOR
10 IDENTIFICATION.)

11 MS. VERONESE: What?

12 THE WITNESS: This and this, I started them
13 doing that.

14 MS. THOMPSON: Wait. I don't like this
15 whispering, because it's on the thing.

16 MS. VERONESE: Okay. Just say it.

17 Q. Do you have something you want --

18 A. Yes.

19 Q. Wait. You need to wait.

20 Do you have something you want to add to or
21 change about your testimony?

22 A. Yes.

23 Q. Okay. Please do so.

24 A. Um, the cage count and the security merchandise
25 count, I started that.

1 Q. What do you mean you started that?

2 A. I started the company doing this.

3 Q. Okay. And when was that?

4 A. I have always done it. I have always counted my
5 cage. I have always counted merchandise in the store
6 because of the area that I worked in. And the company
7 started doing it after they found out that I was doing
8 it.

9 Q. Okay. Well, when was that?

10 A. '98, '99.

11 Q. Okay. So just -- I want to make sure I
12 understand your testimony.

13 In 1999, you started conducting cage counts; is
14 that right?

15 A. Yes.

16 Q. And what was the other practice you were
17 referring to?

18 A. Random merchandise counts.

19 Q. And random merchandise counts.

20 You started that practice in 1999?

21 A. Yes.

22 Q. Okay. And then that wasn't -- it was your --
23 it's your testimony that there was no company policy or
24 practice with respect to cage counts or random
25 merchandise counts before then?

1 about the testimony you -- or add to about the testimony
2 you've given?

3 A. No.

4 Q. All right. So just so we're clear, the
5 testimony about the policies of the cage counts, is
6 that -- are you referring to page 762 of Exhibit 5?

7 A. 762? Yes.

8 Q. Okay. Where it says, "Secured Merchandise
9 Counts"?

10 A. Yes.

11 Q. And the first sentence reads, "Store managers
12 are required to perform at least one complete count of
13 all secured merchandise each week," end quote.

14 Are you saying that's the policy that you
15 started in 1999?

16 MS. VERONESE: Right here.

17 THE WITNESS: Yes. They was doing it once a
18 month.

19 MS. THOMPSON: Q. I'm sorry?

20 A. RadioShack said you could do it once a month.
21 They wanted you to do it once a month.

22 Q. All right. So your testimony is that before
23 when was it once a month?

24 A. Um, '90 -- 1999 to 2005, you only had to count
25 it once. Actually --

1 Q. All right. I thought you said 2003 to 2004.

2 Are you changing that now to 2005?

3 A. It was -- from that time, from 2003 to 2005,
4 they began counting once a week, because too many people
5 were losing too much merchandise.

6 Q. All right. So you're saying sometime between
7 2003 and 2005, the company adopted a requirement of
8 counting secured merchandise once a week.

9 A. Yes.

10 Q. And before that, it -- you're saying that the
11 RadioShack policy was secured merchandise only needed to
12 be counted once a month.

13 A. Yes.

14 Q. But you -- starting in 1999, you did secured
15 merchandise counts once every week, right?

16 A. Yes.

17 MS. VERONESE: Let her finish the question.

18 MS. THOMPSON: Q. And did you do that once
19 every week from 1999 until the time that you left your
20 employment?

21 A. Yes.

22 Q. Now, you also mentioned something about random
23 merchandise counts.

24 Did I understand that correctly?

25 A. Yes.

1 Q. Go ahead?

2 A. There's a cage count that you have to count.

3 Q. All right. So you're saying there are two
4 counts. One is cage count, right?

5 A. Yes.

6 Q. And the cage count is a count of all of the
7 merchandise that's locked in the cage?

8 A. Yes.

9 Q. Okay. And then there's also something you're
10 calling, what, a secured merchandise count?

11 A. Yes.

12 Q. And that's a count of what?

13 A. Um, different types of merchandise that are in
14 the store that's not in the cage.

15 Q. So what was part of the count? What was
16 considered -- anything not --

17 A. Security --

18 MS. VERONESE: Wait.

19 MS. THOMPSON: Q. So it's not -- the secured
20 merchandise count, in your terminology, is merchandise
21 that's outside the cage; is that right?

22 A. Repeat that, please.

23 MS. THOMPSON: Can you read it back, please.

24 (Record read by the reporter as follows:

25 "Q. The secured merchandise count, in your

1 terminology, is merchandise that's outside
2 the cage; is that right?")

3 THE WITNESS: Yes.

4 MS. THOMPSON: Q. Okay. But it's high-value
5 merchandise?

6 A. Yes.

7 Q. Okay. So it was your policy and your practice
8 to do a cage count every week, right?

9 A. Yes.

10 Q. Using your definition of cage count.

11 And that you also did a secured merchandise
12 count, again, using your definition? You did that every
13 week too, right?

14 A. Yes.

15 Q. Okay. All right. Let's go to Exhibit 6.

16 Exhibit 6, for the record, is a copy of the
17 complaint in this action.

18 What I'd like you to do is take a few minutes
19 and familiarize yourself with Exhibit 6.

20 In particular -- well, first of all, have you
21 seen Exhibit 6 before today?

22 A. Um, I don't remember.

23 Q. Okay. Well, I will represent to you, and I'm
24 sure your lawyer will confirm, that Exhibit 6 is a
25 document prepared by your lawyers that sets forth the

1 Q. Okay. And what were the store's hours in April
2 of 2010?

3 A. From 9:00 to 7:30, 9:00 to 8:00, one of them.

4 Q. 9:00 to either 7:30 or 8:00 p.m.?

5 A. Yes.

6 Q. And you would typically leave around 6:00, so
7 the store was still open when you would leave. Is that
8 a fair statement?

9 A. Yes.

10 Q. Okay. And who would be in charge when you left?

11 A. Um, Bruce or Rosetta.

12 Q. Because Bruce or Rosetta -- and Rosetta both
13 were key carriers?

14 A. Yes.

15 Q. So if you weren't there, either Bruce or Rosetta
16 would be there and would be in charge?

17 A. Yes.

18 Q. Okay. All right. So let's talk about the
19 evening of April 13th, 2010.

20 This states, "On the evening April 13th, 2010,
21 Plaintiff had left the store to make a bank deposit, and
22 then went home as he did daily."

23 That was your normal routine. Is that a true
24 statement?

25 A. Yes.

1 Q. You would leave the store, make a bank deposit,
2 and then go home?

3 A. Yes.

4 Q. And that was your regular practice each day?

5 A. Yes.

6 Q. Okay. Then it states, quote, "Plaintiff had
7 left \$120 in his desk drawer as per custom and practice
8 should a customer need change," end quote.

9 Is that a true statement?

10 A. Yes.

11 Q. So what do you mean by should a customer need
12 change? What does that mean in the context of the
13 statement I just read?

14 A. Meaning that once we make the bank deposit, from
15 6:00 o'clock to 7:30, they can make anything from 1,000
16 to \$2,000 in cash. And if we don't have change for them
17 to make that change, to make the sale, then they would
18 no way -- they wouldn't be able to operate the business,
19 because they have no change to do the business.

20 Q. Okay. I understand you're saying you needed to
21 have change. I understand that. Right?

22 Okay. But you're saying, on this particular
23 night, you left \$120 in the desk drawer.

24 Is that a true statement?

25 A. Yes.

1 MS. THOMPSON: Q. I thought you just testified
2 that you left \$120 in your desk drawer, as set forth in
3 paragraph 32 of Exhibit 6.

4 A. I misunderstood the question when you said \$300
5 in the drawer, cash -- in the cash register. I
6 misunderstand that. I was thinking about \$300 towards
7 the whole store, not \$300 in the cash register.

8 Q. Okay. So let's start all over again, then.

9 On the evening of April 13th, 2010, when you
10 left to make the bank deposit, how much money,
11 approximately, did you leave in the cash register
12 drawer?

13 A. I'm not for sure.

14 Q. What's your best -- what was your custom and
15 practice?

16 A. To leave \$300 for petty cash in the store.

17 Q. Okay. Do you have any reason to believe you
18 didn't follow your custom and practice on April 13th,
19 2010?

20 A. No.

21 Q. Okay. So you've testified that you left \$120
22 out of the \$300 in your manager's desk drawer, correct?

23 A. Yes.

24 Q. Okay. So how much, then, did you leave in the
25 cash register drawer, \$180?

1 MS. VERONESE: He testified he didn't know.

2 MS. THOMPSON: Q. Well, what's the difference
3 between 120 and \$300? If you left \$300 in petty cash in
4 the store, and \$120 is in the back, what's in the front?

5 A. The difference.

6 Q. Well, you're the guy in charge. Was that right,
7 that you would -- the difference would be \$180, right?

8 A. Right.

9 Q. Okay. So you have \$120 in petty cash in the
10 back manager's desk drawer, right?

11 A. Right.

12 Q. And then you have \$180 in the cash register
13 drawers in the front, right?

14 A. Right.

15 Q. And the reason you kept \$120 in the back, in the
16 manager's desk drawer, was because you were concerned
17 with theft?

18 A. And wanted to make sure I had change in the
19 store for customers when they come into the store.

20 Q. Okay. But you also had change in the cash
21 register drawer. You had \$180 in cash register drawer,
22 right?

23 A. Right.

24 Q. Okay. So I thought you testified, and correct
25 me if I'm wrong, that you kept \$120 in the back, because

1 you wanted to protect that money from theft. Is that
2 true?

3 A. Or -- yes. Yes.

4 Q. Okay. Now, the next sentence, in paragraph 32,
5 says, quote, "When plaintiff left the store that
6 evening, the drawer was locked," end quote.

7 Is that a true statement?

8 A. Yes.

9 Q. And who locked the desk drawer?

10 A. I did.

11 Q. Okay. Who else had a key to the desk drawer
12 besides you?

13 A. Rosetta and Bruce.

14 Q. Okay. And you knew they both had keys, right?

15 A. Yes.

16 Q. And you intended them to have keys so they could
17 have access to the cash that was left in the manager's
18 desk drawer, right?

19 A. Yes.

20 Q. And what makes you so sure the drawer was locked
21 when you left?

22 A. I have a habit of pulling the drawers, to make
23 sure that they're locked, before I leave.

24 Q. Okay. And do you have a specific memory of --
25 on the night of April 13th, 2010, making sure the desk

1 drawers were locked before you left, or are you just
2 assuming you did it?

3 A. I'm made sure that it was locked.

4 Q. I'm sorry?

5 A. I made sure that it was locked.

6 Q. Okay. So your testimony is that when you left
7 the store, on the night of April 13th, 2010, the desk
8 drawer was locked, right?

9 A. Yes.

10 Q. Okay. The next statement in paragraph 32 says,
11 "After plaintiff left, Defendant O'Campo returned to the
12 store."

13 Now, you were already gone, right?

14 A. Yes.

15 Q. So who told you that Defendant O'Campo returned
16 to the store?

17 A. Rosetta.

18 Q. Okay. When did Rosetta tell you that?

19 A. Oh, she called me up about 7:15, 7:20 that
20 evening and said that Donna was in the store.

21 Q. Okay.

22 A. And, um, she said that she had just made, um --
23 sold four laptops, and it was cash, and she said she's
24 got a lot of money in the drawer. I told her, "Take the
25 money, take it to the bank. Take it back in the back

1 and count it, and take it to the bank.

2 All right. So --

3 A. I told her to.

4 Q. All right. Let me just make sure I understand
5 something.

6 Was Rosetta call -- did Rosetta, when she called
7 you, say, "Donna is in the store right now"?

8 A. Yes.

9 Q. Okay. And this was around 7:00 p.m.?

10 A. Around there.

11 Q. Okay. And this is Rosetta was calling you at
12 home?

13 A. Yes.

14 Q. Okay. And Rosetta calls you and says, "Donna
15 O'Campo is in the store. I sold four laptops. I've got
16 a lot of money in the drawer."

17 Did she tell you which drawer she meant?

18 A. Cash drawer up front.

19 Q. The cash register drawer?

20 A. Cash register. I'm sorry.

21 Q. So when -- did Rosetta tell you if anybody else
22 was in the store with Ms. O'Campo?

23 A. She said somebody else was with her.

24 Q. Did she say who it was?

25 A. No, she didn't tell me who it was.

1 Q. Did she describe the person for you?

2 A. No.

3 Q. Okay. So when Ms. -- after Rosetta told you
4 that there was a lot of money in the cash register
5 drawer, what did you say?

6 A. "Take it out. Take it back in the back and
7 count it, and take it to the bank."

8 Q. And what did Rosetta say?

9 A. She did it. She was taking the money back to
10 the back to count it.

11 Q. So I'm sorry. You're on the phone with Rosetta,
12 right? She's calling you?

13 A. Yes.

14 Q. Okay. She tells you there's a lot of cash in
15 the drawer because she sold four laptop computers for
16 cash, right?

17 A. Yes.

18 Q. And your instructions were, "Take it to the
19 bank"?

20 A. To the bank.

21 Q. Okay.

22 A. Make a bank deposit.

23 Q. Okay. Did you say anything else to her?

24 A. No.

25 Q. Did Rosetta say anything else in that

1 conversation?

2 A. Um, I believe she -- she said that "She's going
3 through your drawer back there," and, um, that was it.

4 Q. Okay. Let's look again at paragraph 32. So
5 it's line seven. "Rosetta, an employee of Defendant
6 RadioShack, who had a key to the drawer, had just sold
7 some computers and had opened the cash drawer to make
8 some change," end quote.

9 Now, with -- the reference to the cash drawer is
10 what, the cash register drawer? I'm looking at
11 paragraph 32, line 9.

12 A. I'm not -- I believe it was the cash drawer,
13 because she was up front. Rosetta was up front when
14 Donna was in the back.

15 Q. Okay. So I'm just asking you your understanding
16 of what is meant by the statement in paragraph 32.

17 This all comes -- all this information comes
18 from Rosetta because you were not there. Is that a fair
19 statement?

20 A. Yes.

21 Q. So you're relying on Rosetta in terms of making
22 these allegations in paragraph 32 after you left, right?

23 A. Right.

24 Q. Okay. Look at paragraph 33. "Defendant O'Campo
25 began going through plaintiff's desk and became angry

1 that the cash drawer was not locked. Rosetta, who was
2 very distressed, called her boss, the Plaintiff, and
3 informed him that Defendant O'Campo was going through
4 his desk."

5 Okay. So is all of the information that's set
6 forth in Exhibit 33, is Rosetta the source of your
7 information?

8 A. Yes.

9 Q. Again, because you were not there yourself,
10 right?

11 A. No.

12 Q. Okay. So Rosetta tells you that Ms. O'Campo
13 started going through the desk in the back office,
14 right?

15 A. Right.

16 Q. And the desk is RadioShack property?

17 A. Yes.

18 Q. Okay. And Defendant -- I mean, Donna O'Campo
19 was your boss at the time, right?

20 A. Yes.

21 Q. And did she have the right to go through your
22 desk drawer?

23 A. Yes.

24 Q. Okay. So Ms. -- so Rosetta told you that Donna
25 became angry that the cash drawer was not locked.

1 Now, when you're referring to cash drawer, in
2 paragraph 33, are you talking about the manager's desk
3 drawer or the register drawer?

4 A. The desk drawer.

5 Q. Okay. So Ms. -- Rosetta told you that the
6 manager's desk drawer in the back office was not locked
7 when Ms. O'Campo came to the store; is that right?

8 A. Yes.

9 Q. And Ms. Holmes, Rosetta Holmes, when she called
10 you, told you that Ms. O'Campo was going through your
11 desk, right?

12 A. Yes.

13 Q. Okay. Read paragraph 34, please.

14 Quote, "The next day Plaintiff called Defendant
15 O'Campo. Defendant O'Campo accused Plaintiff of leaving
16 the cash drawer open. Rosetta had told O'Campo that she
17 had unlocked the drawer because she had just opened the
18 drawer to make change for a purchase."

19 Okay. So did you call Ms. O'Campo the next day?
20 Is that a true statement?

21 A. I did call her.

22 Q. Okay. What was your purpose in calling Donna
23 O'Campo the next day after this incident?

24 A. Well, she came to the store while I was not
25 there. So she came to the store. I wanted to find out

1 what were her response or outcome on what happened in
2 the store so she can inform me what went on.

3 Q. Okay. Because, as you sit here now, you have no
4 personal knowledge about what actually happened in the
5 store on the night of this visit by Ms. O'Campo and this
6 other unidentified person, right?

7 A. Right.

8 Q. Okay. Let's look at paragraph 37, please.

9 "Two weeks later, on April 27th, 2010, Defendant
10 O'Campo returned to the store with the manager of lost
11 prevention."

12 Were you present at the store when this
13 happened?

14 A. Yes.

15 Q. And who was the manager of loss prevention that
16 you're referring to? Is that David Gonsolin?

17 A. Yes.

18 Q. So Ms. O'Campo and Mr. Gonsolin came to your
19 store together on April 27th, 2010?

20 A. Yes.

21 Q. Okay. The next statement is, "Defendant O'Campo
22 stated to Plaintiff `give me your keys. We are going to
23 let you go for not taking care of Radio Shack
24 merchandise,'" end quote.

25 Is that a true statement?

1 A. Yes.

2 Q. Okay. So when Ms. O'Campo and Mr. Gonsolin came
3 to your store, is that what Ms. O'Campo said to you,
4 "Give me your keys. We're going to let you go for not
5 taking care of RadioShack merchandise"?

6 A. Yes.

7 Q. Then the paragraph 38 reads, "Plaintiff Allen
8 was stunned. He replied, 'I have the best inventory in
9 the district. What is really going on here? It's not
10 about the merchandise? Why are you really firing me?'"

11 Is that what you said?

12 A. Yes.

13 Q. And according to the complaint, it says, quote,
14 "Defendant O'Campo stated, 'sue me.'"

15 A. Yes.

16 Q. Were those Ms. O'Campo's exact words?

17 A. Yes.

18 Q. And did Ms. O'Campo ask you to leave the store
19 at that point?

20 A. Right after that, yes.

21 Q. Did Mr. Gonsolin say anything during this
22 discussion?

23 A. He tried to say something.

24 Q. What did Mr. Gonsolin say?

25 A. I didn't really pay it any attention what he was

1 saying.

2 Q. Was he saying something?

3 A. He said something. I don't remember what it
4 was.

5 Q. Okay. Drawing a complete blank on anything said
6 by David Gonsolin?

7 A. There was a blank there. I was talking with
8 Donna, because Donna had her mind focused on getting me
9 out of there.

10 Q. All right. So as you sit here now, you don't
11 remember anything that David Gonsolin said?

12 A. No.

13 Q. But he was present during the entire time,
14 right?

15 A. Yes.

16 Q. Okay. What else did Ms. O'Campo say -- what, if
17 anything, else did Ms. O'Campo say to you that day, at
18 that time, after she said, "I'm letting you go for not
19 taking care of Radio Shack merchandise"? Did she saying
20 anything else other than what you've -- what is set
21 forth in Exhibit 6, the complaint?

22 A. I don't remember. I don't recall.

23 Q. Do you remember anything else said by either you
24 or Ms. O'Campo on the day of April 27th, 2010, when you
25 were being terminated?

1 A. Um, I believe I said, um, "Are you setting a
2 slave free?" something like that.

3 Q. What made you make that statement, "Are you
4 setting a" -- well, let me back up.

5 What did you mean by that, "Are you setting a
6 slave free?"

7 A. Um, as a RadioShack store manager, that is your
8 life. That is your -- that Radio Shack is everything.
9 Everything you do is RadioShack. That's like the number
10 one priority almost in your life until Radio Shack came
11 along and said, "Here's what we want all the managers to
12 do. We want all you managers to train someone so that
13 RadioShack will not be the top priority in your life.
14 Your family will be the top priority in your life. So
15 once you get someone trained, we want you to start
16 trying to take off as much time as you can so that you
17 would not be so wrapped up in RadioShack," so....

18 Q. Did you -- can you remember saying anything else
19 during the conversation on April 27th, 2010, other than
20 what you've testified to?

21 A. No.

22 Q. Can you remember anything else at all about that
23 discussion with -- between you and Ms. O'Campo and
24 Mr. Gonsolin other than what you've already told me?

25 A. Not that I can recall, no.

1 Q. How long did you stay in the store after the
2 conversation with Ms. O'Campo and Mr. Gonsolin?

3 A. I left.

4 Q. How long did the conversation take place?

5 A. I have no idea.

6 Q. Approximately ten minutes?

7 A. I have no idea. What I know, after she said get
8 my keys and get out, I did that. Then I walked in --

9 Q. Okay. So you left when she asked you to leave,
10 is that --

11 A. Yes.

12 Q. And then what did you do after you left?

13 A. Walked out the front of the store and thought
14 about where am I going, what am I -- who should I call,
15 or should I call my wife and talk to my wife about it,
16 or should I catch the bus and go down to where any wife
17 is at. I was pondering how I was going to get home,
18 so.... And that's what I standing there trying to
19 decide, waiting on the bus to come, which direction so
20 that I can run and catch the bus to go to where my wife
21 worked at to get my car to go home. And I stood there
22 in front of the store pondering that idea.

23 Q. Did you have any further discussions with anyone
24 at that point?

25 A. In the store?

1 e-mail. When we take a break, I'll come back to the
2 e-mail, then.

3 Q. All right. Did you actually speak with anyone
4 in human resources?

5 A. I did talk to one lady in human resources.

6 Q. Who did you speak to, do you know?

7 A. Um, she was new. I could -- it's all on the
8 e-mail that I e-mailed back to her.

9 MS. THOMPSON: Okay. All right. Well,
10 actually, why don't we take a break now. I'll try to
11 find the e-mail, and then hopefully we can wrap up.
12 Okay?

13 VIDEO OPERATOR: Okay. We're off the record at
14 2:07.

15 (Recess taken.)

16 VIDEO OPERATOR: This is the beginning of tape
17 three. We're on the record at 2:14.

18 MS. THOMPSON: Q. Okay. Um, right before we
19 took a break, Mr. Allen mentioned an e-mail that he had
20 sent to human resources at RadioShack, and I went and
21 checked the productions.

22 And I'd like to mark the next document as
23 Exhibit 8.

24 (DEFENDANTS' EXHIBIT NO. 8 WAS MARKED FOR
25 IDENTIFICATION.)

PATRICIA CALLAHAN REPORTING

42d641a2-be4b-43bd-bccd-bc36e969c56d

1 MS. THOMPSON: And, for the record, I've marked
2 as Exhibit 8 a one-page document Bates numbered Allen
3 versus RadioShack 000177 and appears to be an e-mail
4 from Frank Allen to Shaan Smith, dated Wednesday, May
5 5th, 2010.

6 Q. So please take as much as time as you need to
7 review Exhibit 8, Mr. Allen.

8 Okay. Have you looked at Exhibit 8?

9 A. Yes.

10 Q. Have you seen Exhibit 8 before today?

11 A. Yes.

12 Q. Is Exhibit 8 the e-mail that you were talking
13 about in your testimony before the break?

14 A. Yes.

15 Q. Okay. So what was your purpose in sending
16 Exhibit 8 to Shaan Smith?

17 A. We had talked earlier, and she said she was
18 going to get back with me. I never did get a response,
19 so I e-mailed her the letter.

20 Q. So did you actually speak with Shaan Smith on
21 April 28th, 2010?

22 A. I'm not for sure about the date, but I did speak
23 to her.

24 Q. Well, the reason I'm asking you is because this
25 e-mail says, quote, "I spoke with you on April 28th,

1 2010."

2 A. Yes.

3 Q. Okay. So does that refresh your recollection
4 that around on or about April 28th, 2010, you had an
5 actual conversation with Shaan Smith?

6 A. Yes.

7 Q. Was that over the telephone or face-to-face?

8 A. Telephone.

9 Q. Okay. And you called Ms. Smith; is that right?

10 A. Yes.

11 Q. How did you get her name and number?

12 A. I called Texas. Texas given me a number. That
13 was the number that I wasn't able to get in contact with
14 anybody with. I called a couple of people up, and they
15 got me her number.

16 Q. Who gave you her number?

17 A. Um, it was through networking. I'm not for sure
18 who give it to me, but I went through some people, and
19 they got me her number.

20 Q. Well, some of your friends at RadioShack?

21 A. Yes.

22 Q. Okay. And who actually gave you the number?

23 A. That's what I'm not for sure, who did give me
24 the number.

25 Q. Well, who did -- do you remember who you asked

1 associate?

2 A. Um, she was transferred to another store.

3 Q. And did you think that was an appropriate
4 resolution?

5 A. Yes, I did.

6 Q. Okay. So other than talking with Shaan Smith
7 about that complaint between the two employees in your
8 store, had you had any other occasion to speak with or
9 see Shaan Smith between the December 2009 store visit
10 with Mr. Patakas and your conversation with Shaan on or
11 about April 28th, 2010, regarding your termination?

12 A. I missed -- I'm sorry. Would you repeat that.

13 Q. Sure, it was a long, convoluted question.

14 Can you read it back, please.

15 (Record read by the reporter as follows:

16 "Q. Okay. So other than talking with Shaan
17 Smith about that complaint between the two
18 employees in your store, had you had any
19 other occasion to speak with or see Shaan
20 Smith between the December 2009 store visit
21 with Mr. Patakas and your conversation with
22 Shaan on or about April 28th, 2010,
23 regarding your termination?")

24 MS. THOMPSON: Q. I just want to make sure
25 there was nothing in there that I'm missing.

1 Any other conversations --

2 A. No.

3 Q. -- with Ms. Shaan Smith?

4 A. No.

5 Q. I'm sorry?

6 A. No.

7 Q. Okay. So when you spoke with Ms. Smith, on
8 April 28th, 2010, on or about April 28th, 2010, can you
9 tell me everything that you recall saying to Ms. Smith
10 and what she said to you that day?

11 A. All I remember is explaining to her what
12 happened.

13 Q. What did you tell her? What were the words that
14 you used to tell her what happened?

15 A. Um, I had left the store. Um, Donna came into
16 the store. Um, Donna went back in the back and found
17 some change that we keep back in the back in a drawer, a
18 locked drawer. And she came back and fired me for not
19 securing company policy -- company funds when I was not
20 even there to make sure the drawer was locked, even
21 though my district manager and area manager and everyone
22 knew that I kept the change in the drawer at all times,
23 and, um, she came in and fired me.

24 Q. This is everything that you're telling to
25 Ms. Smith?

1 Q. So after you related this to Ms. Smith, what, if
2 anything, did she say back to you?

3 A. She said that she was going to look into it and
4 get back with me.

5 Q. Did she ask you questions, any questions?

6 A. Um, I think she was just listening to me and
7 said that she would get back with me.

8 Q. Do you remember saying anything else to
9 Ms. Smith other than what you've testified to?

10 A. Not that I remember, but we had a nice
11 conversation.

12 Q. Was she pleasant and polite to you?

13 A. Yes.

14 Q. Um, and -- so you don't remember her really
15 saying anything to you other than just listening to you
16 and saying that she would get back to you?

17 A. Yes.

18 Q. How long did this conversation take?

19 A. Thirty minutes.

20 Q. It took 30 minutes, to your best recollection?

21 A. About 30 minutes.

22 Q. Okay. And, at the end of the conversation,
23 Ms. Smith said words to the effect of "I'll look into
24 this and get back to you," right?

25 A. Yes.

1 Q. Okay. And then did you ever hear from her
2 again?

3 A. No.

4 Q. Okay. So I know that you wrote Exhibit 8 on,
5 looks like, May 5th, about seven -- about a week later,
6 right, after the conversation?

7 A. Right.

8 Q. After writing Exhibit 8, did you ever make any
9 further efforts to get in touch with Ms. Smith?

10 A. I tried calling quite a few times.

11 Q. And when you called, was there an answering
12 machine?

13 A. No. There was a lady at the desk, and she kept
14 saying that she was busy or she wasn't there.

15 Q. Did you leave messages?

16 A. Yes.

17 Q. Did you ever leave any voice mail messages for
18 Ms. Smith?

19 A. No.

20 Q. Did you have her direct dial line to Ms. Smith?

21 A. To her office, to her desk.

22 Q. Her office?

23 A. To her office.

24 Q. Yes.

25 A. Where her secretary was.

1 Q. Okay. So what -- I guess what I'm trying to
2 figure out is, did -- was there a direct phone line --
3 were you aware of any direct phone line that went right
4 to Ms. Smith as opposed to some secretary?

5 A. No, I wasn't aware of that.

6 Q. Okay. So you tried calling a couple of times,
7 and somebody you understood to be a secretary would
8 answer and say "Ms. Smith is too busy, but I'll give her
9 the message" or words to that effect?

10 A. It was more than a couple. I even tried almost
11 like every other hour trying to get in contact with her
12 at one point.

13 Q. But you never actually left a voice mail message
14 for her. It was all through the secretary?

15 A. All through the secretary.

16 Q. Did you ever send her any other e-mails other
17 than Exhibit 8?

18 A. No.

19 Q. Did you ever send her any letters, not through
20 e-mail but through regular mail? Did you ever attempt
21 to contact Ms. Smith through regular mail?

22 A. No.

23 Q. Did you attempt to contact anyone else at
24 RadioShack when you did not hear back from Ms. Smith?

25 A. I tried to talk to people in Fort Worth, but

1 they channeled me back to her.

2 Q. Did you have any reason to believe that
3 Ms. Smith was biased against you because of your race?

4 A. No.

5 Q. Any reason -- did Ms. Smith ever say or do
6 anything to you that suggested she was biased against
7 you because of your age?

8 A. Ms. Smith?

9 Q. Yes.

10 A. No.

11 MS. THOMPSON: Sorry. Can we just go off the
12 record for five minutes.

13 VIDEO OPERATOR: Off the record at 2:31.
14 (Off the record.)

15 VIDEO OPERATOR: Okay. Back on the record at
16 2:32.

17 MS. THOMPSON: Okay. Actually, let me withdraw
18 that. Sorry. Let me withdraw that. I might have one
19 more question. I really apologize.

20 Okay. I have no further questions.

21 VIDEO OPERATOR: Okay. This is the end of
22 today's deposition. We're going off the record at 2:33.
23 (Deposition concluded at 2:33 p.m.)

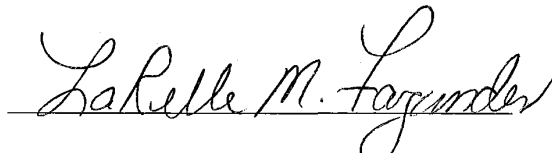
24 _____
25 Signature of witness

CERTIFICATE

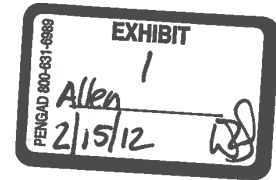
I, the undersigned, a Certified Shorthand Reporter, State of California, hereby certify that the witness in the foregoing deposition was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place therein stated; that the testimony of said witness was reported by me, a disinterested person, and was there after transcribed under my direction into typewriting; that the foregoing is a full, complete and true record of said testimony; and that the witness was given an opportunity to read and, if necessary, correct said deposition and to subscribe the same.

I further certify that I am not of counsel or attorney for either or any of the parties in the foregoing deposition and caption named, nor in any way interested in the outcome of the cause named in said caption.

Executed this 8th day of October, 2012.


LARELLE M. FAGUNDES, CSR 9762

PATRICIA CALLAHAN REPORTING



Job Title: Store Manager

Job Code: MD, ME, MN, MO LD, LE, LN, LO

Reports To: District Manager

Purpose: To maximize sales and profit, through employee training and supervision, directing sales, personal selling, control of expenses, and protecting the company's assets.

Essential Functions: Responsible for all operations of the assigned store. Takes direction from the District Manager to perform total store management responsibilities including promoting and maximizing sales, marketing, expense control, loss prevention and customer experience. Works with District Manager to hire, and personally schedules, trains, coaches, and develops the store team.

Performs daily store activities including, but not limited to those described in the Store Manager Success Model. Serves as primary management contact for both employees and customers of the store.

Tasks and Responsibilities:

Refer to the Store Manager Success Model

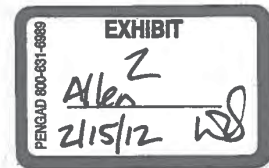
Knowledge and Skill Requirements: High school diploma or GED required for candidates over the age of 18. Strong desire to excel and be compensated on self performance. Demonstrated leadership characteristics including aptitude to lead a sales team and manage a store. Excellent interpersonal and communication skills. Must be reliable and have high personal integrity. Must be able to input necessary POS information into computer and tender the proper change in a cash transaction.

Working Conditions: Retail store environment. Normally scheduled to work 5 to 6 days, 48 to 54 hours per week including some evenings, weekends and holidays. Extended hours may be required at particular times, i.e. during holiday seasons, remodeling, inventory, cleaning, security breaks, etc. Duties of selling and stocking require continuous standing and walking throughout the workday. Duties also require frequent bending, reaching, pushing, pulling, and lifting of up to 15 lbs. May occasionally climb, kneel, crawl and lift up to 50 lbs. or more and/or assist others in lifting heavier objects. May occasionally have to travel to district office for training or work in other nearby stores.

This job description does not state or imply that the above are the only duties and responsibilities assigned to this position. Employees holding this position will be required to perform any other job-related duties as requested by management. All requirements are subject to possible modification to reasonably accommodate individuals with a disability.

Revised 3/15/06 CCD

RS/ALLEN000268



02/21/2003 03:14 4152424357

DISTRICT OFFICE

PAGE 01/01


RadioShack
 A Division of Tandy Corporation

 Regional Sales Office 01-0340
 2000 Crow Canyon Place, Suite 140
 San Ramon, CA 94583
 Phone: (925) 866-1126
 Fax: (925) 866-1119

2/27/2011

February 21, 2003

Dear Frank Allen:

This written reprimand is being given to you as a result of poor operational control, failure to follow daily report procedure and policy violation for cash procedures.

Tom Nabozny (Loss Prevention Manager) visited store on February 20, 2003 and the store visit report revealed the following:

Refunds- 0 out of 29 refunds either had SM or issuers signature as per company policy.

Voids- 0 out of 2 voids were signed by the SM as per company policy.

Payroll- Time cards need to be filled out by employees every day worked. SM must review and sign each employee's time card for accuracy prior to closing payroll.

Applications on File- 0 out of 7 RSAP applications did not have the hard copy of RSAP contract signed and attached to the document. 2 out of 4 Verizon applications did not have the wireless phone purchase summary filled out and attached to the document.

Found a box in the manager's desk, which contained \$300. Money was used for change to avoid running to the bank daily to get change.

Mr. Allen:

I need you to follow company policy for all cash procedures. Cash must be kept in the cash drawer and monitored by you at all times. This must be done immediately and I'm holding you accountable to follow all company policies at all times.

I hereby acknowledge receipt of this written reprimand.

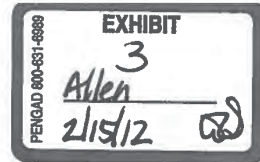
Store Manager Signature

Date

District Manager Signature

Date

RS/ALLEN000094



RadioShack.
CORPORATION

Loss Prevention Services



* PERFORM *

2000 Crow canyon Pl. #140, San Ramon Ca.

POOR QUALITY
all

925-866-0208

Fax: 925-866-1128

431 08 6588

Tom Nabozny
Loss Prevention Manager

April 16, 2007

MEMORANDUM

TO: Hani Alzaghari DM 01-0538
cc: Tom Schultz RSM / Steve Hodgkins, Director, Loss Prevention
FROM: Tom Nabozny LPM

SUBJECT: Policy Violation (Store #01-3830) (Failure follow company compliance Operational procedures)

The following details are provided to you for your information and action deemed appropriate. If you have any questions concerning this matter do not hesitate to contact me.

On Monday April 16, 2007 I conducted an SVR for store 01-3830 San Francisco Ca and found that store manager FRANK ALLEN was not in compliance for operational procedures.

During my visit I found that ALLEN was not reviewing or signing refunds and voids on a daily basis. Several of the refunds either did not have the issuers or the customer signatures as per policy.

19 out of 24 refunds reviewed did not have the customers name, address, or phone number on the refund.

I also reviewed all Sprint contracts from the month of April and found that none of them had the customer profile sheet attached to the contract. I also found that one of the contracts did not have the sales ticket attached. This then lead me to review the manager's Redbook and found that ALLEN has not filed the wireless transaction checklist for the last 18 days

ALLEN needs to understand that by just ignoring these operational procedures, he is showing that he is not being responsible for maintaining the security of company assets. The kind of negligent attitude that is displayed in this area reflects poorly on ALLEN's managerial skills.

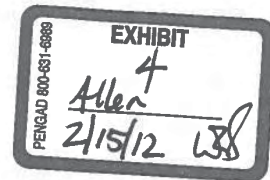
To better control this area, ALLEN needs to address his operational issues in a timely and thorough manner.

Please review this violation with the associate and return it to me signed within ten days.

1. *[Signature]*
2. *[Signature]*
3. *[Signature]*
4. *[Signature]*
5. *[Signature]*

Received Time Apr.25. 11:43AM

RS/ALLEN000091



Corrective Action Record

Employee Name:	Frank Allen	District:	538
Job Title:	Store Manager	Date:	3/23/2010
Supervisor:	Donna Ocampo	Area:	West

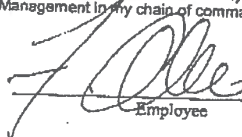
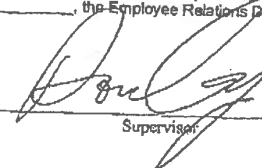
<i>Identify behavior, performance, special issues, or events requiring corrective action:</i>	
Issue to Correct	<p>Failure to protect company assets from internal and external theft.</p> <ul style="list-style-type: none"> 5 laptops on display, not secured (only screamers) Missing Cage Counts for Mid February Laptops were not secured in the backroom. David Gonsolin RLPM and I made room in the cage to protect the laptops. Several months of numerous cash shortages were found. You failed to report the shortages and did not have an explanation as to why they are happening.

<i>List date(s) and summarize all previous counseling's both verbal and written:</i>	
Previous Actions (Specific)	<p>Store Visits from David Gonsolin RLPM 2/04/2009 documenting similar issues with asset protection.</p> <p>Previous DM communication through Store Visits, District Meeting and One on One conversations.</p>

<i>What disciplinary action may occur due to failure to improve?</i>	
Consequences Of Failure To Improve	<p>Failure to achieve the required improvement will lead to additional disciplinary action including and up to termination.</p>

Employee Comments	
-------------------	--

I have received a copy of this Corrective Action Record and understand RadioShack has an Open Door Policy. I may discuss this issue or any other employee relations issue with my Area Human Resources Director, _____, the Employee Relations Department or any member of Management in my chain of command.

Employee _____ Date 3/23/10 Supervisor _____ Date 3/23/10

RS/ALLEN000192

The Store Manager's Non-Negotiable Standards Reference



People	Product	Property
Scheduling2	All Products on Display.....15	Store Exterior20
Recruiting.....3	Everything Priced 16 – 17	Customer Environment..... 21 – 22
Training.....4 – 5	Asset Protection..... 18 – 19	Working Environment..... 23 – 24
Dress Code6		Store Safety25
Goal Setting.....7		
Performance Review 8 – 9		
Employee Awareness 10 – 11		
Customer Service.....12		
Handling Returns 13 – 14		

Scheduling



How you allocate payroll within your store is crucial to driving increased customer satisfaction and increased sales and profitability for RadioShack as a whole. This procedure addresses the basics of creating and executing a quality weekly store schedule.

Store Manager Responsibilities:

- Verify all present employees are currently on the clock
- Ensure all time punches are paired (complete set of in/out punches) and that employees are clocking out appropriately for meal and rest periods
- Ensure employee availability is meeting the needs of the business and documented properly in the system
- Verify that the store is within the needed hours and all employees are working the posted schedules
- Ensure both full-time and part-time core staffing levels (as communicated by your DM) are met.
- Review timesheets daily and, if needed, correct unauthorized records.
- Ensure there are no unfilled time shifts. If unavoidable, unfilled should be minimal.

Scheduling	The Store Manager will be responsible for correcting all shift violations and the schedule must be published before Monday, prior to the effective week. In addition, all Team Member availability should be current and documented.
Working Scheduled Shifts	<p>All Team Members are expected to be ready for work at the scheduled time. However, circumstances may arise that necessitate a change in the published schedule. It is the responsibility of the Team Member to request a change in their schedule by exchanging shifts with another Team Member.</p> <p>The following absences are excused if documented and approved in advance by the manager and don't require a shift exchange: personal paid absence, personal illness, paid vacation, required jury duty (paid or unpaid), bereavement, and all documented approved Leaves of Absence.</p> <p>Managers should ensure that scheduled and actual hours do not deviate from allocated hours.</p>
Clocking-In and Clocking Out	<p>It is the responsibility of everyone (including Managers) to clock-in/out of Workforce Management when beginning/ending a shift and when taking meal breaks. If needed, the Manager should correct any unauthorized records, which could be caused by:</p> <ul style="list-style-type: none"> • Failure to clock-in or out correctly (ex: two clock ins but no clock outs) • Working more than 12 hours in one day <p>Store Managers should counsel Team Members any time they fail to clock-in and out properly.</p>
Payroll	<p>At the end of the payroll week, the Store Manager will complete payroll making adjustments as necessary.</p> <ul style="list-style-type: none"> • The Manager should perform final review of time sheets to ensure that all Team Members have authorized records for each day of the week. • All Team Members must sign off on their time sheet electronically by accessing the Time Card Sign-Off link in the Links section of the WFM LaunchPad home page. • Store Manager will then complete remaining payroll (commissions and SPIFFs) via the payroll system.

Additional Materials



WorkForce Management FAQs: Operations > Store Ops Manual > Operating A Store > Payroll & Scheduling

Recruiting



Building a successful team is important to the productivity, overall growth and profitability of your store. Finding the right mix of Team Members is not always easy. In seeking candidates, look for people who have the following qualities: teamwork, pride, trust, integrity, desire, energy, enthusiasm and passion.

Recruiting sources come from both inside and outside the store. The Recruitment Advertising Team in the Home Office is a direct source for information on recruiting events, tools, and support. They can be reached via email at Recruitment.Advertising@RadioShack.com.

Store Manager Responsibilities:

- Store Managers are responsible for proactively recruiting inside and outside the store. Regular utilization of R Recruits will assist a manager in finding qualified individuals from an available pool of applicants.

In-Store	A store's own Sales Associates can be the best in-store source. Associates are the direct communication vehicle to customers. Sales Associates should be aware of the recruiting and interviewing process, so they can communicate effectively to customers and candidates that "walk in" looking for opportunities. The Recruiting website on Answers Online provides information on the various in-store tools. All Store Managers should be familiar with R Recruits and utilizing it on a regular basis.
Outside the Store	<p>Sources for recruiting outside the store consist of career fairs, both in the community and at local colleges and universities, networking at local organizations and our competitors. Each District Manager has access to information made available by an Area Recruiting team to assist with local hiring opportunities.</p> <p>Local career fairs: Community/Educational institutions. Participation in career fairs in the local community will help to increase positive brand recognition and also give exposure to meet potential Sales Associate and Manager-in-Training candidates. The local Chamber Of commerce, newspapers and the Area Recruiting Managers are great sources for information on fairs in the area. Recruitment Advertising can also help by supporting with materials needed at career fairs.</p> <p>Organizations in the community: Managers should constantly be active recruiters in their community. They should reach out to everyone they interact with— at the soccer field, after the PTA meeting, at religious organizations— everyone should be on the lookout for potential candidates. Networking is THE best source for recruiting.</p> <p>Competitors: Good pools of candidates are those who are gainfully employed and successful in their current position. As a result, it takes persistence, enthusiasm, and a friendly approach to uproot them from their current employer. Refer to the Recruitment SOP on Answers Online for tips on how to approach and convert potential candidates from competitors.</p>

Additional Materials



[Hiring & Recruiting Website: Human Resources > Recruiting](#)

Training




Our customers look to RadioShack for the answers to their questions. In order for your associates to help customers understand our products and services, they have to understand them first. A key part of your job is to ensure your Team Members are practicing the Working Together Sales and Service approach and are knowledgeable in the products and services we sell. Our customers expect our Associates to have this knowledge, especially as it relates to new products and those featured in our weekly advertisements.

Store Manager Responsibilities:

- All employees are current with their Individual Learning Plan.
- Ensure all new store employees complete their Shack Track training within the defined training schedule.
- Ensure all Associates have completed the latest Associate Training Guide training and can demonstrate the skills learned.
- Ensure Assistant Store Manager in Training is following the program and receiving appropriate support.
- Ensure all Associates know (or are able to find for their customers) all of a product's features, and more importantly, be able to translate them into benefits (what the feature does for you).
- Ensure all Associates are able to advise customers on how products are set up, hooked up, and which accessories are needed.

Shack Track	<p>Shack Track training is designed to develop Sales Associates to be ready for their current position and see the career path to their next position. It consists of online training modules, self-paced study guides and on-the-job training and practice. Training doesn't end here. True performance results come through your involvement in continued on-the-job training and performance coaching. It is also important that you teach the right behaviors through role-modeling.</p> <p>A Manager's Guide and a Training Checklist containing all of the activities referenced in the Shack Track modules are available on the Answers Online Training site.</p>
Individual Learning Plan	Each Team Member has his or her own unique Learning Plan which lists the curriculums and courses assigned to them.
Online Courses	<p>The interactive online courses are designed to give Associates foundational knowledge of a given subject.</p> <p>Coaching guides are available to help Managers gauge Associate understanding of content. Each coaching guide contains tips on how you can work with your Associates to make sure they understand the content and are able to apply the principles on the sales floor. Each guide includes a course outline, coaching tips, and exercises (i.e. verbal knowledge checks, skills practice, product knowledge questions, etc.).</p>
Associate Training Guide	<p>While the Associate Training Guide has self-directed learning activities, the most important part of the guide is the activities that they perform with you. The activities (which are often skills-practices or product demonstrations) let you gauge your Associates' readiness to serve and sell to customers. Based on how well they do, you can show your Associates how it should be done and provide additional tips, training, coaching, and positive reinforcement. You should not certify that the guide is complete until your Associates can demonstrate that they can do the activities on the checklist.</p> <p>Like with all courses in the Learning Center, you can view the completion results of the Associate Training Guide for the Associates in your store by running your Detail Progress Report on your Course Report in the Learning Center.</p>

Assistant Store Manager Training	<p>You must be selected to help develop our people who have chosen a career with RadioShack as a Store Manager. During this training, you will partner with your District Manager to ensure they have the knowledge, skills, and experience to be a successful Store Manager.</p> <p>Store Managers can provide support to MITs by encouraging and assisting with the on-the-job experiences and Learning and Action Checklist activities included in the ASM Training Program. Your support includes skills practices and providing opportunities to participate in management activities such as performance evaluations, assisting with recruiting, inventory preparation, etc.</p> <p>One of the toughest things new Assistant Store Managers face is balancing their time between personal sales, coaching others and performing their management duties. As they complete their assigned training, you should let them take over the management responsibility themselves. Your job then shifts to coaching them to be a successful Store Manager.</p>
Product Knowledge	<p>As you display new products, have your Associates read the product manual, and then tell you about the product, its benefits, and how it hooks up. You can check for understanding by asking questions like:</p> <ul style="list-style-type: none"> • What does it do/how does it work? • What is the price? What accessories will you suggest and why? • What are the key features? • What are the benefits of those features? • What are some other uses for the product?
Internet Resources	<p>RadioShack.com, manufacturer's Web sites, Product Reference Sheets on Answers Online, in-store signs, and local vendor representatives are excellent resources.</p>

Additional Materials	
	Learning Center FAQs: Operations > Training > Learning Center > Learning Center Login > Help/FAQ
	Product Reference Sheets: Products > Product Reference Sheets
	Customer Promotions: Products > Customer Promotions
	RadioShack.com

Dress Code



Our customers expect your store and your team members to exhibit high standards of appearance. And their perception of our "People Readiness" and "Sales Readiness" is the ultimate deciding factor in determining whether or not they choose to honor us with their business. That's why we have established dress guidelines.

Store Manager Responsibilities:

- Ensure all Team Members are in compliance with the RadioShack Dress Code Guidelines.

Name Badges	All Team Members are wearing their RadioShack name badge while working.
Clothing	<p>All Team Members clothing is neat, clean, pressed, in good repair, and are in compliance with our Dress Code. Clothing should be tasteful and fit well with appropriate undergarments.</p> <ul style="list-style-type: none"> • Shirts or blouses must be oxford style, white or black in color, and have a button-down or straight collar. Any color other than white or black is only approved when it is an HPI RadioShack logo shirt. All shirts worn must be buttoned up to one button below the collar. • Slacks must be Dockers-style chinos or twills in solid colors (black, brown, gray, or traditional khaki). Women can also wear skirts in twill or wool (colors same as slacks) and must be no shorter than three inches above the knee and worn with pantyhose/nylons.
Shoes	All Team Members' shoes should be clean and polished (if appropriate).
Hair	All Team Members' hair is clean, natural looking, well maintained, and neatly styled. Extreme styling or unnatural hair color for men or women is not permitted. Facial hair for men is neatly trimmed.
Fingernails	Ensure all Team Members fingernails are clean, trimmed, and not of excessive length.
Personal Hygiene	All Team Members are using antiperspirant or deodorant. The use of heavy scents and fragrances should be avoided.
Jewelry	Jewelry should be in good taste. Earrings must be worn on the lower ear lobe and limited to two earrings per lobe. Ear cuffs and pierced jewelry for the eyebrow, tongue, nose, or other areas are not acceptable to be worn at work.
Sunglasses	Sunglasses should not be worn indoors nor worn resting on the top of the head. However, prescription lenses that adjust to the lighting are acceptable.
Tattoos	Tattoos may not be exposed.
Makeup (woman)	Makeup should be natural in appearance and not excessive or extreme.

Additional Materials

[RadioShack Dress Guidelines](#): Human Resources > HR Reference > Dress Guidelines

[RadioShack Apparel Program Catalog](#): Human Resources > HR Reference > Dress Guidelines

[RadioShack Apparel Program Sizing Guide](#): Human Resources > HR Reference > Dress Guidelines

[HPI Apparel Purchase Program Payroll Deduction](#): Human Resources > HR Reference > Dress Guidelines



Goal Setting



Working with each team member to set daily and monthly goals is a key activity to improve personal and store performance. Successful execution requires that you role model the desired behavior and performance and provide fair and honest feedback through regular coaching sessions.

Store Manager Responsibilities:

- Work collaboratively with each associate to set goals within the goal setting window using the Performance Management Tool on Answers Online. Ensure that all Associates understand their individual contribution to the store goals.
- Ensure that each team member accesses the Performance Management Tool daily and can correctly communicate their personal goals and performance results.
- Ensure Associates know how to achieve personal goals with the correct sales mix of end product, add-ons, accessories and services.
- Role model the desired behavior and performance.
- Provide feedback to each Associate based on observations on the sales floor.

Associate Sales Plan and Goals	A week before the end of each month, you will be able to view your monthly plan numbers for the next month on the Profit and Sales Report and Performance Management Tool. Prior to the beginning of the next month, you must use this plan to discuss and set individual goals with each Associate in your store. Team member sales goals must meet or exceed the store's plan up-against.
Associate Action Plan and Goals	Schedule and block 20-30 minutes with each associate to discuss goals and create the action plan with minimal interruptions. Populate the Associate Action Plan in the Performance Management Tool when working with your associates to complete their sales goals. <ul style="list-style-type: none"> o Previous performance and associate skills should be taken into consideration when creating goals and developing plans. o Goals and Action Plans should be clear, measurable, and realistic based on the associates skill level, however they should encourage them to grow their productivity to a higher level.
Associate Earning Plan and Goals	Use the past month's performance and the Monthly Performance Plan as a guide in setting Earning Plans. While discussing the Earning Plan, use the online Income Planner as a tool to help set specific Earning Goals.

Additional Materials



[Associate Income Planner: Performance > Calculators](#)

[Associate Performance Management Tool: Answers Online homepage > Daily Planner \(calendar\)](#)

Performance Review



Formal one-on-one feedback is important to an Associate's development. When consistent feedback is provided, sales goals can be reviewed, new goals can be set and overall performance can be addressed. This will provide awareness of the performance areas where they excel and where they need improvement. Performance Reviews must be captured in the Performance Management Tool on Answers Online.

Store Manager Responsibilities:

- Review performance results and opportunities with each team member.
- Meet weekly with each Associate below 100% of MTD goal to document coaching and feedback on the Weekly Manager/Associate Review section of the Performance Management Tool.
- Schedule and conduct a 20-30 minute (without interruption) Performance Review with each Associate at the end of each month. Document coaching and feedback on the Month End Manager/Associate Review section of the Performance Management Tool.
- Properly prepare for each review by having the needed tools ahead of time.
- Rate each Associate's activities and sales results objectively and consistently.

Performing the Review

Managers must complete a monthly Performance Review with each Associate using the Performance Management Tool on Answers Online; this should be a collaborative effort. If applicable, use documented weekly Performance Reviews as a tool to facilitate a discussion about actions and activities that contributed to the final results. Associate performance below 100% of the month to date plan must be reviewed with the Associate and documented on a weekly basis.

Sales Performance: Using the individual's data from the Performance Management Tool, Sales Associate performance will be reviewed in the following areas:

- Sales Dollars, SGPS – Selling Gross Profit Dollars, SGP % – Selling Gross Profit Percentage, Tickets, SPH – Sales Per Hour, SGP \$/Hour – Selling Gross Profit Dollar per Hour, Post Paid Units, No Contract Units and the Four Plan Drivers that were selected


Activities: Rate their compliance using **Acceptable** or **Needs Coaching** in the following areas:

- Teamwork, Selling Skills, Assigned Task completion, Dress Code Adherence, Customer Care, Schedule Adherence
- Discuss with the Associate how they are performing in each Activity area. Make sure they understand your expectations for each item and capture the final ratings.

Discussing and Planning: Discuss whether or not they used the Action Plans from the previous month's Performance Review. Compliment and critique accordingly. Talking points:

- How were targets achieved and how can they be maintained or grown?
- What behaviors caused the performance?
- For targets that were missed, what happened?
- Look at Action Plans in the previous reviews, were plans completed?
- Did the plans yield the desired results?

Performing the Review (cont.)	<p>Open the discussion with your Associate by reviewing your observations of their behaviors and activities. Discuss any Associate "wins"; these can be anything from a great customer interaction, demonstration of teamwork, taking extra training, etc.</p> <ul style="list-style-type: none"> • Review the Associate's goals vs. actual results. For each item, discuss and identify areas that need coaching. Working with the Associate, develop a plan to improve this gap in their selling skills. • After you and your Associate have developed a plan, enter the details into their individual plan. • Always follow up on any direction that you have given in previous goal setting and review conversations. Keep in mind that the action plan serves as a reminder of the goal setting process from the beginning of the month (for both the manager and associate). • Conversations surrounding performance should always tie back to income opportunities.
Month End	<p>At the end of the month, all completed Associate Weekly and Month End Reviews should be filed in each Associate's employee file for a period of one year.</p>

Additional Materials	
	Associate Performance Review Procedure > Operations
	> Store Ops Manual > Operating Store > General Ops
	Associate Performance Management Tool: Answers Online homepage > Daily Planner (calendar)

Employee Awareness



One of the most important responsibilities that you are entrusted with is ensuring your Associates understand how they get paid, and what impact each team member's actions have.

Store Manager Responsibilities:

- Ensure all Associates understand how they get paid, current spiffs, and what they must do to earn more.
- Ensure all employees are familiar with current promos and events, complete Associate Training Guide training and read and initial The Shack This Week and The Shack This Weekend on a weekly basis.
- Confirm that all employees are aware and adhere to our Information Security Policy and follow all PCI compliance standards per the Store Records and Filing Procedure.
- Ensure that the Trade In Program guidelines are followed and related items are shipped within the defined timeline.
- Follow call2recycle guidelines and ensure timely battery shipments.

Earnings Opportunities	<p>It's also important for you to motivate Associates to want to earn more, and teach them how. Set earnings goals with each associate weekly. After a sale, ask them how that sale helped them reach their goal. Ask what else they could have sold (like accessories, a related product, a special offer), to help them reach that goal faster.</p> <p>Associates: They have control to increase their earning potential and are rewarded for their performance as they meet specific business needs and goals.</p> <p>Customers: They are treated to great service from Associates who are interested in exploring their needs, and helping them with complete solutions.</p> <p>Managers: Your compensation is impacted by your Associates' performance.</p> <p>RadioShack: The Company's ultimate profitability is the cumulative result of each store's sales and profit, benefiting both our employees and stockholders.</p>
Utilizing Resources	<p>Our Associates increase their opportunities for earning more and taking care of our customers by staying up to date on current promotions and special events. By staying current on Associate Training Guide training, reading The Shack This Week and The Shack This Weekend, Store Specific Memos, and the Customer Promotions site on Answers Online, Associates can obtain vital information to support sales and customers on a daily basis.</p>
Company Programs	<p>All team members must maintain awareness of specific company programs and their benefits and execute accordingly. The Trade In Program and call2recycle program are examples of programs where stores must comply with guidelines for follow up.</p> <ul style="list-style-type: none"> • Confirm that all Trade In products are shipped with guidelines. • Confirm that all team members are accepting approved batteries, bagging each battery, and sealing and shipping the boxes to the call2recycle address (must be less than 40 pounds per box).

Information Security, Information Privacy, and PCI Compliance

Information Systems Security, Usage, and Information Policies: These policies were designed to protect the integrity of the Company's information and information systems, including telephone, voicemail, email, fax, data, computer systems, and other related resources. As a reminder, authorized representatives of the Company may periodically monitor the use of information systems. Team members are advised that they should have no expectation of privacy in any communication or information systems.

PCI Compliance: It is policy that employees, contractors, temporaries, and other workers must take appropriate steps to ensure that confidential and proprietary information is protected for the safety and well being of our customers, employees, and our company. Secure destruction of confidential or personally identifiable information is also required by law in many states and by regulatory agencies that oversee our business. Failure to comply could harm our customers and employees, and could lead to negative publicity, expensive lawsuits, fines, and could even cause us to lose our right to accept credit cards as a form of payment.

Additional Materials

Employee Pay Plans: Human Resources > Compensation

SPIFFs, Ring Credits, and Bolt-Ons List: Human Resources > Compensation

Performance SPIFF Product Categories: Human Resources > Compensation

RadioShack Service Plan Gross Profit Chart: Human Resources > Compensation

RadioShack Today: Answers Online Homepage

Customer Promotions: Products > Customer Promotions



Information Systems Security and Usage Policy: Human Resources > HR Reference > Policies and Procedures > Information & Assets

Store Records and Filing Procedures: Operations > Store Ops Manual > Operating A Store > Store Records

Confidential Information Guidelines: Human Resources > HR Reference > Team Answer Book > Policies - Protecting Our Information

Shred Program Procedure: Operations > Store Ops Manual > Operating A Store > Store Environment.

Call2Recycle Procedures: Human Resources > RS In The Community > Environment

Trade-In Program Procedures: Operations > Store Ops Manual > Selling Standards > Trade-In Program

Customer Service



Customers shouldn't have to approach Associates and ask for help; Associates should approach them, and ask how they can help. They should follow the Working Together Sales and Service Approach to better serve and sell to their customers.

Store Manager Responsibilities:

- Managers must be a role-model of the high standards they expect from their Associates.
- Review results of Mystery Shops with all team members to coach and improve.
- Ensure all employees are circling the Customer Satisfaction Survey on every receipt and inviting customers to give their feedback.
- Ensure the 8.5 X 11 "How are we doing?" sign is posted at the counter and visible to all customers.

Customer Service Programs	The Mystery Shop and Customer Satisfaction Survey programs are an important way to evaluate the value and service your team is offering our customers. Use these tools to learn from the feedback and coach your team to successful customer service.
Role Model	Associates learn about exceptional customer service in their New Hire Training, sales and service can't be learned from reading. Associates learn from the example you set. You must role-model the high standards you expect your Associates to exhibit.
Serving Customers	<p>After Associates have served a customer, ask them, "What did your customer want to do with what he or she came in for?"</p> <ul style="list-style-type: none"> • Associates who know the answer are providing exceptional service, adding on accessories, and related products consistently. • Associates who don't know are not asking questions to explore their customers' needs, which mean they could not have recommended a complete solution (all the accessories, services, and add-ons).
Working Together and Service Approach	Review the Working Together Sales and Service Approach training with your Associates to reinforce the proper sales and service techniques. Observe them as they interact with customers and coach them afterwards. Every time you "catch them doing it right" provide immediate and specific feedback.

Additional Materials

[Introduction to the Customer Returns Toolkit Course:](#)
Operations > Training > Learning Center > Learning Center Login



[Returns and Distressed Merchandise:](#) Operations >
Store Ops Manual > Selling Standards > Sales Refunds

[Mystery Shops:](#) Reports Ops > Customer Satisfaction Report

[Customer Service Survey:](#) Reports Ops > Customer Satisfaction Report

Handling Returns



Returns and exchanges are a natural part of the job, but that doesn't have to mean lost sales. How we manage our relationship with customers during returns and exchanges makes all the difference in our continuing efforts to make them our raving fans in the future. It's important that your team is prepared to provide outstanding service to our customers.

Store Manager Responsibilities:

- Customers returning products for a refund or exchange receive efficient and friendly service in accordance with our current Return Policy.
- All employees resolve customer concerns and attempt to "save the sale".
- Ensure that all employees are familiar with restocking fees and are presenting the details to customers when completing sales involving these fees.
- Confirm that the receipt is being attached to all wireless phones that are returned to RMAC as the result of a swap or refund.

Resolving Customer Concerns and Saving Sales

Associates should never assume that the return customer they're helping will only be satisfied with a refund. Associates should use the Apologize, Determine, and Resolve technique to satisfy customers with service (like an exchange), the sale of an additional product or accessory, or a refund.

Apologize that your customer had to come back to the store or experienced difficulty.

Determine the reason for the return, and whether money, service, or another product will satisfy your customer. Find out whether your customer needs or wants the benefits the product they want to return provides. Next, find the specific problem that's making your customer unhappy.

- For instance, if your customer is returning an MP3 player, you could ask, "Do you still want to have something that lets you listen to music portably?" If so, you may be able to satisfy your customer without having to issue a refund.
- Next, find the specific problem that's making your customer unhappy. Use qualifying questions like "What doesn't this do that you'd like it to?" and "What features are you looking for?" Another helpful question is, "What do you like best/least about this?" Once you know those things, you can solve the problem.

Resolve: Based on what you learned, resolve the situation by suggesting a product with better features, one that does what your customer wants it to do, or an accessory that makes it work the way your customer expects. Either way, you minimize potential refunds, and maximize your customer's satisfaction and their impression of you.

Of course, some customers will only be satisfied by a refund. Help them cheerfully. It's better to lose a few dollars than to lose a valuable, life-long RadioShack customer. Customers may return a product for a refund or exchange for any reason, provided the item in question conforms to established return requirements (available on Answers Online).